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HIGHWAY REVENUE ACT OF 1982

REPORT

OF THE

COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

ON

H.R. 7368

[Including Cost Estimate of the Congressional Budget Office]

DECEMBER 6, 1982.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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HIGHWAY REVENUE ACT OF 1982

December 6, 1982.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. Rostenkowski, from the Committee on Ways and Means, submitted the following

REPORT

[To accompany H.R. 7368]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 7368) to provide revenue for repair and rehabilitation of the Nation's highways and for mass transit capital expenditures, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

I. SUMMARY OF THE BILL

Under present law, the Highway Trust Fund generally will expire after September 30, 1984. The Ways and Means bill, the Highway Revenue Act of 1982, extends the Highway Trust Fund through September 30, 1988, provides revenue sources for it, and establishes a new transit account in the trust fund. The statute authorizes the transfer of certain specified amounts into or out of the trust fund after the statutory expiration date.

Under present law, the highway excise taxes that provide the revenues for the trust fund generally expire or revert to lower rates after September 30, 1984. The bill increases the annual revenues into the trust fund by extending some of the taxes at higher levels through September 30, 1988, and repeals or modifies other provisions. In providing these tax changes and extensions for the Highway Trust Fund, the committee changed the distribution of the tax burden of highway users by shifting a larger share to the heaviest trucks on the highways and reducing the share paid by lighter trucks. These shifts of burden are consistent with the highway cost allocation study submitted to Congress by the Department of Transportation in May, 1982.

As a result of these changes, trust fund receipts will be increased above the levels of a simple continuation of the present law taxes by $2.2 billion in fiscal year 1983, $5.2 billion in 1984, $5.6 billion in 1985, 1986 and 1987, and $5.7 billion in 1988.

Total Highway Trust Fund tax revenues are estimated at $8.6 billion in fiscal year 1983, $12.0 billion in 1984, $12.8 billion in 1985, $13.1 billion in 1986, $13.4 billion in 1987, and $13.8 billion in 1988.

The specific tax and trust fund changes contained in the Ways and Means bill are summarized below. Table 1 contains a summary comparison of the tax provisions in present law and in the bill.

Tax Provisions

Motor fuels taxes.—The excise taxes on gasoline, diesel and special motor fuels used in highway vehicles are 4 cents a gallon; fuel used in recreational motorboats also is taxed at 4 cents a gallon. These taxes are scheduled to decline to 1½ cents a gallon after September 30, 1984.

The bill increases the excise tax rates to 9 cents a gallon, beginning on April 1, 1983, through September 30, 1988. Complete exemptions from the 9 cents a gallon tax are provided for State and local governments, nonprofit educational institutions, farm use, school buses, local transit buses, intercity buses, off-highway business use, and alcohol fuels (other than those derived from petroleum). Exemptions from the present law 4 cents a gallon excise tax are continued at that level for qualified taxicabs (through fiscal year 1984) and gasohol. Ground applicators of fertilizers, and other substances are made eligible for refunds of fuel taxes, because of farm use, under the same terms as are aerial applicators.

All the motor fuels taxes and the exemptions from these taxes will terminate after September 30, 1988. Revenue from the 9 cents a gallon tax on recreational motorboat fuel generally is transferred to the Land and Water Conservation Fund; however, up to $45 million (instead of $20 million as in present law) is the maximum amount that may be transferred to the National Recreational Boating Safety and Facilities Improvement Fund, which is extended through fiscal year 1988.

Tires, tubes and tread rubber.—These items presently are subject to a manufacturers excise tax that is levied on a per pound basis:

highway tires at 9.75 cents, other tires at 4.875 cents, laminated tires at 1 cent, inner tubes at 10 cents, and tread rubber at 5 cents. After September 30, 1984, the tax on highway tires is scheduled to fall to the same 4.875 cents rate applied to other tires. The tax on inner tubes would decline to 9 cents per pound, and tread rubber no longer would be subject to tax.

Under the bill, the taxes on inner tubes, laminated tires and all nonhighway tires are repealed. The taxes also are repealed on highway tires weighing 100 pounds or less and on tread rubber used to retread tires of 100 pounds or less. Highway tires weighing more than 100 pounds are taxed at 25 cents a pound, and tread rubber used on tires of more than 100 pounds also is taxed at 25 cents a pound.

The changes in these excise taxes are effective on January 1, 1984, and the taxes will expire on October 1, 1988.

Lubricating oil.—Lubricating oil presently is taxed at 6 cents a gallon. The bill repeals this tax on the day after the date of enactment.

Trucks and truck parts.—Truck parts and accessories are taxed at 8 percent of the manufacturer's sale price, under present law. Trucks and truck trailers weighing more than 10,000 pounds are taxed at 10 percent of the manufacturer's sale price. these taxes are scheduled to decline to 5 percent after September 30, 1984.

Under the bill, the tax on truck parts and accessories is repealed. the taxes on new trucks and trailers are increased to 12 percent. In addition, this tax will be imposed at the retail level on the retail price, rather than at the manufacturers' level. The weight threshold for these taxes is increased from 10,000 pounds to 33,000 pounds for trucks and to 26,000 pounds for trailers. Rail trailers and vans are exempt from the tax.

The repeal of the parts and accessories tax and the exemption from the tax on trucks from 10,000 to 33,000 pounds and trailers less than 26,000 pounds are effective on the day after the date of enactment. The shift of the truck tax to the retail level and the increase from 10 percent to 12 percent are effective April 1, 1983.

Heavy vehicle use tax.—The tax on heavy vehicles in present law is $3 per thousand pounds for trucks weighing more than 26,000 pounds. In its place, the bill provides a graduated tax that begins at 33,000 pounds. Trucks below that weight level will pay no use tax. At 33,000 pounds, trucks will pay $60, and heavier trucks will pay an additional $20 for each added 1,000 pounds up to 55,000 pounds. Thus, under this rate schedule a 55,000 pound truck will pay an annual use tax of $500. Trucks weighing between 55,000 pounds and 80,000 pounds will pay $500 plus $60 for each 1,000 pounds over 55,000 up to $2,000, which is the maximum annual use tax on heavy trucks. The new schedule is effective on January 1, 1984.

In addition, an exemption (or refund) will be provided for trucks that travel less than 2,500 miles in a taxable period. These changes are effective on January 1, 1984.

Sunset of taxes.—All the highway user excise taxes, as well as the exemptions from the taxes, expire after September 30, 1988.

Motor carrier operating rights.—The bill provides that the basis adjustments applicable under the Economic Recovery Tax Act of

1981 to corporate taxpayers acquiring certain motor carrier operating authorities shall also apply to noncorporate taxpayers acquiring such rights.

Trust Funds and Transit Account

Highway Trust Fund.—Under the bill, the Highway Trust Fund is extended through September 30, 1988. The taxes that will be deposited into the Trust Fund, and the authority to spend from the Trust Fund, also will expire after Septemer 30, 1988, except for certain statutory transfers allowed after the expiration date.

The bill transfers statutory authority for the Trust Fund to the Internal Revenue Code. Authority to spend from the Trust Fund is provided for the general trust fund expenditure purposes which are authorized by law as of December 31, 1982.

The anti-deficit provisions of the present "Byrd amendment" are modified and clarified. As a result, unfunded trust fund authorizations may not exceed two years of anticipated trust fund receipts. Authority for repayable advances from the Treasury is repealed.

Mass Transit Account.—One cent a gallon of the fuels taxes is to be deposited in a new separate Mass Transit Account in the Highway Trust Fund. These deposits may be used only for mass transit capital programs, including new starts, that are authorized in section 3 of the Urban Mass Transit Act. This account is limited to unfunded authorizations in anticipation of only one year's receipts. Repayable advances are not permitted.

Table 1.—Comparison of Current Highway User Excise Taxes and Those Approved by the Committee on Ways and Means

Tax	Present law (before Oct. 1, 1984)	Ways and Means Committee approved rates
Fuels:		*Effective Apr. 1, 1983:*
Gasoline	4 cents/gallon	9 cents/gallon.
Diesel fuel	4 cents/gallon	9 cents/gallon.
Special motor fuels.	4 cents/gallon	9 cents/gallon.
Lubricating oil	6 cents/gallon	Repeal.[1]
Trucks and truck parts:		
Trucks and trailers.	10 percent of manufacturer's sale price for trucks and trailers over 10,000 lbs.	12 percent on retail sales price for trucks over 33,000 lbs. and trailers over 26,000 lbs.[2]
Parts and accessories.	8 percent of manufacturer's sale price.	Repeal.[1]
Tires, tubes and tread rubber:		*Effective Jan. 1, 1984:*
Tires for highway vehicles.	9.75 cents/pound on all highway tires.	25 cents/lb. for tires over 100 lbs.
Laminated tires	1 cent/pound	Repeal.
Other tires	4.875 cents/pound	repeal.
Inner tubes	10 cents/pound	Repeal.
Tread rubber	5 cents/pound for tires of all weights.	25 cents/lb. for use on tires over 100 lbs.
Use tax on heavy vehicles.	$3 per 1,000 pounds per year, if more than 26,000 pounds.	0–33,000 lbs. no tax.[3] 33,000–55,000 lbs. $60 plus $20/1,000 lbs. in excess of 33,000 lbs. 55,000–80,000 lbs. $500 plus $60/1,000 lbs. in excess of 55,000 lbs. Over 80,000 lbs. $2,000.

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[1] Effective day after date of enactment.

[2] The increase in the exemption for trucks and trailers from 10,000 lbs. to 33,000 lbs. and 26,000 lbs., respectively, is effective on the day after the date of enactment. The increase of the rate to 12 percent and a shift to the retail level for collection of the tax are effective April, 1, 1983.

[3] Effective January 1, 1984.

II. GENERAL REASONS FOR THE BILL

The Committee on Public Works and Transportation has reported H.R. 6211, the Surface Transportation Assistance Act of 1982, which provides for additional spending programs for highways and mass transit. The Committee on Ways and Means is convinced that substantial improvements are needed to the nation's highways, bridges and mass transit systems, and that additional revenues from highway user excise taxes should be raised for the Highway Trust Fund sufficient to finance additional expenditures for this purpose. Furthermore, it believes that the Highway Trust Fund, which has been an extremely successful government program, should be extended for four additional years to fund the expenditures contemplated under H.R. 6211.

Financing Increased Highway Trust Fund Authorizations

The Ways and Means Committee bill increases the excise tax revenues going into the Highway Trust Fund in order to finance the increased levels of trust fund authorizations under the Public Works and Transportation Committee bill as proposed to be amended. Trust fund authorizations for highways and highway-related programs under the Public Works Committee bill total $53.4 billion over the 4-year period, fiscal years 1983–1986. In addition, $4.0 billion over the 4-year period is authorized from the Highway Trust Fund Mass Transit Account for mass transit capital programs. A total of $57.4 billion is authorized from the Trust Fund over the 4-year period.

The bill will raise an estimated $53.1 billion in tax revenues to the Trust Fund over the 4-year extension period, fiscal years 1985–1988. Total trust fund revenues, including accrued interest to the Trust Fund, will total an estimated $58.3 billion over this same 4-year period. Thus, the bill is fiscally sound by providing sufficient future revenues to finance future trust fund authorizations. As of the end of fiscal year 1986 (the last year of authorization under the Public Works Committee bill), unpaid trust fund authorizations will amount to an estimated $29.2 billion; this compares to trust fund revenues of $30.1 billion projected for the last two years of the trust fund extension (fiscal years 1987 and 1988).

Restructuring of Highway Excise Taxes

The committee believes that the cost allocation principle should be applied in structuring the highway user excise taxes. By this principle, users of any one type of vehicle should pay the same share of excise taxes as the share of highway costs which results from their use of those vehicles. The committee accepts the conclusions of the cost allocation study undertaken by the Department of Transportation and transmitted to the Congress earlier this year.

The results of that study indicate that users of passenger cars very nearly pay their equitable share under the present excise tax structure, but that large disparities exist in the shares paid by truck users: users of single-unit trucks pay about two times their share of highway costs, while users of the heaviest combination trucks pay just 60 percent of their equitable share. The committee concluded that it should greatly reduce such disparities by restructuring the highway user excise taxes, particularly the heavy truck use tax, the tax on sales of trucks, and the tire tax. The following table illustrates the relationship between user taxes paid and allocated costs by type of vehicle under present law and under the bill.

RATIO OF USER TAXES PAID TO ALLOCATED COSTS OF FEDERAL HIGHWAY TRUST FUND PROGRAMS

Vehicle class	Present law	Ways and Means Committee bill
Autos and motorcycles	.97	1.00
Buses	.04	.00
Pickups/vans	1.08	1.11
Other single-unit trucks	1.99	1.17
Combination trucks	.80	.92
Under 70,000 lbs.	1.24	1.33
70,000 to 75,000 lbs.	.78	.96
Over 75,000 lbs.	.59	.76
All Vehicles	1.00	1.00

Source: Department of Transportation, May 1982 and December 1982.

Highway Excise Tax Simplification

The committee also believes that the highway user excise taxes should be less numerous and more readily administrable. The committee decided, therefore, to terminate several highway excise taxes (such as the taxes on lubricating oil, inner tubes, nonhighway tires, and truck parts and accessories) which yield little revenue or have presented serious difficulties for effective administration and equitable compliance.

III. EXPLANATION OF THE BILL

A. Motor Fuels Taxes

(Sec. 511 of the bill and secs. 44E, 4041, 4081-4083, 6416, 6420, 6421, and 6427 of the Code)

Present Law

Gasoline tax

A manufacturers excise tax is imposed on the sale by a producer or importer of gasoline. The present gasoline tax is 4 cents per gallon. The tax is scheduled to decline to 1½ cents per gallon on October 1, 1984 (Code sec. 4081 (a) and (b)).

The 4-cents-per-gallon tax on gasoline applies for highway, noncommercial aviation,[1] and motorboat use (other than commercial fisheries or whaling use), except that the tax is 2 cents per gallon for other nonhighway, nonaviation qualified business use.[2] Revenues from the gasoline tax generally are deposited in the Highway Trust Fund. Revenues from the tax on noncommercial aviation are deposited in the Airport and Airway Trust Fund. An amount equivalent to the revenues from the tax on motorboat gasoline is transferred to the National Recreational Boating Safety and Facilities Improvement Fund and the Land and Water Conservation Fund (discussed below).

Diesel and special motor fuels taxes

A tax is imposed on the sale or use of diesel fuel for use in motor vehicles on highways. The tax on diesel fuel is imposed at the retail level and is currently imposed at 4 cents per gallon. The tax is scheduled to decrease to 1½ cents per gallon on October 1, 1984 (sec. 4041 (a)).

A similar retailers excise tax is imposed on the sale of special motor fuels for use in a motor vehicle or motorboat.[3] The tax on special motor fuels is currently 4 cents per gallon and is scheduled to decrease to 1½ cents per gallon on October 1, 1984 (sec. 4041 (b)). The tax on special motor fuels applies both for highway and off-highway use. However, the tax is 2 cents per gallon for off-highway, qualified business use (other than for noncommercial aviation use, which is taxed at 14 cents per gallon).

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[1] Section 4041(c) imposes a retail excise tax on noncommercial aviation gasoline of 8 cents per gallon, for a total tax on noncommercial aviation gasoline of 12 cents per gallon. This rate of tax applies through 1987.

[2] In general, a qualified business use is a use in an off-highway vehicle that is used in a trade or business or for the production of income (other than noncommercial aviation use).

[3] Special motor fuels are benzol, benzene, naptha, liquefied petroleum gas, casinghead and natural gasoline, or any other liquid (other than kerosene, gas oil, fuel oil, gasoline taxed under the general gasoline tax, or diesel fuel taxed under the general diesel fuel tax). Methanol and ethanol fuels are taxed as special fuels under present law. Further, section 4041(c) imposes a retail tax of 14 cents per gallon on nongasoline fuels used in noncommercial aviation. This rate of tax applies through 1987.

Motorboat fuels

As noted above, the gasoline tax and the special motor fuels tax are imposed on such fuels used by motorboats. An amount equivalent to the revenues derived from these taxes is transferred from the Highway Trust Fund to two other special funds. Amounts not exceeding $20 million per year of these revenues for fiscal years 1981–1983 are to be transferred to the National Recreational Boating Safety and Facilities Improvement Fund. However, that fund is not permitted to have a balance in excess of $20 million at any one time. The remainder of the revenues from these taxes is transferred to the Land and Water Conservation Fund.

Exemptions from motor fuels taxes

Present law provides a number of exemptions from the three motor fuel taxes. Off-highway use exemptions apply to farm use (sec. 6420) and use as supplies for certain vessels or aircraft (secs. 4041(g) and 6416(b)(2)(b)).[4] Sales for the exclusive use of State and local governments, sales for export, and sales for use by nonprofit educational institutions and certain aircraft museums are also exempt (secs. 4041(f) and 6416(b) (2) (C)–(D)).

Exemptions from the taxes are also provided for use by school buses and certain other buses providing public passenger transportation for hire (sec. 6421(b) and sec. 6427(b))[5] and for certain qualified taxicab use through 1982 (sec. 6427(e)).[6]

An additional exemption from the taxes applies through 1992 to a fuels mixture (gasohol) which contains at least 10 percent alcohol of 190 proof (secs. 4041(k), 4081(c), and 6427(f)). To qualify, the alcohol must be produced from sources other than petroleum, gas, or coal. Producers of alcohol fuels may claim a 40-cents-per-gallon income tax credit, which is reduced to the extent that the alcohol is used in gasohol for which there is an excise tax exemption (sec. 44E).

The exemptions from the motor fuels taxes are accomplished by tax-free sale or allowance of a refund (or credit) for tax paid when the fuels are purchased. The exemption is usually made available only to the party using the fuel. In the case of the farm use exemption, the exemption is accomplished by means of a credit and is available only to the farm operator, tenant, or owner except in the case of aerial applicators. Aerial applicators that receive written consent of the farm owner, tenant, or operator may claim the exemption for fuels they use for farming purposes.

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[4] The term "supplies for vessels or aircraft" means fuel supplies, ships stores, sea stores, or legitimate equipment for vessels of war, vessels employed in fisheries or in the whaling buisness, or vessels engaged in foreign trade or trade between the Atlantic and Pacific ports of the United States or between the United States and any of its possessions. The term "vessels" also includes civil aircraft employed in foreign trade or trade between the United States and any of its possessions (sec. 4221(d) (3)).

[5] The exemption does not apply for fuel used in such buses where he transportation is not scheduled and not along regular routes unless the seating capacity of the bus is at least 20 adults (not including the driver).

[6] Qualified taxicab use means furnishing of nonscheduled land transportation for a fixed fare by a licensed operator who is not prohibited by law or company policy from furnishing shared transportation (with consent of the passengers). Model year 1978 and later taxicabs must have a fuel economy rating in excess of the average EPA rating for the type of vehicle involved to qualify for this exemption.

Reasons for Change

The present excise taxes funding the Highway Trust Fund are scheduled to expire or to be reduced on October 1, 1984. Extension of the Trust Fund and modifications in these excise taxes are needed to finance the increased highway construction and maintenance programs anticipated by a bill, H.R. 6211, reported by the Committee on Public Works and Transportation.

The committee determined that an increase in the present taxes on gasoline, diesel, and special motor fuels to 9 cents per gallon is necessary to achieve the required funding levels for anticipated highway and transit expenditures. The committee notes that the tax rate on highway motor fuels has not been increased since 1959. These increases, when combined with the modification of the other highway-related excise taxes contained in the bill, are consistent with the findings of the 1982 cost allocation study submitted to Congress by the Department of Transportation.

The committee also examined the various exemptions from the motor fuels taxes. In general, the committee believes that these exemptions should be continued at their present levels, i.e., an amount equal to the full tax imposed on the motor fuels. In three instances, however, the committee determined that modification of the exemptions is appropriate. First, the bill provides a new exemption from the special motor fuels tax, at the 9-cents-per-gallon rate, for alcohol fuels consisting of at least 85 percent ethanol, methanol, or other alcohols. The exemption is available only for alcohol fuels derived from sources other than petroleum. The committee believes this new exemption is consistent with the national energy policy of decreasing reliance on petroleum fuels.

Second, the bill limits the present exemptions for gasohol and fuels used in providing qualified taxicab services to 4 cents per gallon. The committee believes these levels promote the goal of assigning the costs of constructing and maintaining the highway system to the users of that system in proportion to the burden they place upon it. The bill terminates the exemptions for fuels used in providing qualified taxicab services on September 30, 1984, to permit a more thorough examination of that exemption during the next Congress. To assist in this examination, the Secretary of the Treasury is directed to conduct a study of the effectiveness of these exemptions and submit his findings to Congress by January 1, 1984.

Finally, the committee determined that the present exemptions for certain off-highway qualified business uses should be increased from one-half of the otherwise applicable tax to the entire amount of the tax. The committee believes this action is appropriate because these uses of motor fuels place no burden on the highway system.

Explanation of Provisions

1. Increase in motor fuels taxes

The excise taxes on gasoline, diesel, and special motor fuels are increased from their present 4-cent-per-gallon rate to a rate of 9 cents per gallon.[7]

The committee understands that the cost of the additional 5 cents per gallon of tax imposed under its bill, in most cases will ultimately be borne by consumers of the taxable fuels. It is the committee's intention that producers and retailers of taxable fuels not use the occasion of these increases in tax to increase the price of taxable fuels by any additional amount. Therefore, it is the committee's belief that the price of gasoline, diesel fuel, and special motor fuels should not increase by more than 5 cents per gallon as a result of the tax increases imposed under the bill.

2. Taxes on motorboat fuels

The bill increases the tax rates for gasoline and special fuels used in motorboats to 9 cents per gallon to conform those rates to those for other taxable uses of the fuels. The bill also increases the maximum amount that can be transferred to the National Recreational Boating Safety and Facilities Improvement Fund from $20 million to $45 million per year and extends the period for those transfers through September 30, 1988. A corresponding change is made permitting the balance of the Boating Safety Fund to reach $45 million. (For more information on the Boating Safety Fund, see the discussion of the Highway Trust Fund, below in H.)

3. Modification of exemptions from fuels taxes

Gasohol.—The bill retains the present exemptions from the motor fuels taxes for gasohol to exempt each gallon of gasohol from the first 4 cents of tax. Thus, producers and retailers of gasohol fuels are subject to taxes of five cents per gallon on gasohol fuels constituted of alcohol and otherwise taxable fuels. These exemptions will terminate after September 30, 1988, instead of the present law termination date of 1992.

Alcohol fuels.—The bill provides a new exemption from the special motor fuels tax, at the new 9-cent-per-gallon rate, for certain alcohol fuels. Fuels qualifying for the new exemption must consist of at least 85 percent methanol, ethanol, or other alcohols. Additionally, the fuels cannot be derived from petroleum. Such alcohol fuels derived from natural gas, coal, bagasse, or waste or other refuse will qualify for the 9-cent exemption. The 40-cents-per-gallon income tax credit for alcohol fuel is reduced to take account of any benefit provided by this exemption in the same manner as with the current gasohol exemption.

Certain buses.—The bill retains the provisions of present law that provide exemption from the motor fuels taxes for certain buses. Thus, fuels used in these vehicles are entitled to a 9-cent-per-gallon exemption from any applicable motor fuels taxes.

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[7] The excise taxes on fuels used in noncommercial aviation are not changed by the bill. Those taxes remain 12 cents per gallon for gasoline and 14 cents per gallon for other aviation fuels.

Qualified taxicabs.—The bill retains the present exemptions for motor fuels used in providing qualified taxicab services for a temporary period. Under the bill, fuels used in providing qualified taxicab services will maintain their present 4-cents-per-gallon exemption through September 30, 1984. Thus, these fuels are subject to tax at a 5-cents-per-gallon rate.

Further, the bill directs the Secretary of the Treasury to conduct a study of the effectiveness of this exemption in promoting energy conservation and the relationship of this exemption, if any, to the cost allocation goals relating to financing of the highway system. The results of this study, along with any recommendations of the Secretary, are to be submitted to the Congress not later than January 1, 1984.

Farm use.—The bill continues the provisions of present law that provide for full exemption from the motor fuels excise taxes for fuels used on farms for farming purposes.

Off-highway business use.—The bill increases the present exemption for fuels used in a qualified business use from one-half of the tax imposed to the full 9-cent-per-gallon rate.

Other exemptions.—The bill continues, at the new 9-cent-per-gallon tax rates, the other exemptions from tax provided in present law. Among such exemptions are those for fuels sold for the exclusive use of State and local governments, for export, for use by nonprofit educational institutions, for use as supplies for vessels or certain aircraft, and for use by certain aircraft museums.

Method of claiming exemptions.—The committee bill does not change the method by which exemptions from the motor fuels taxes are claimed. The bill does make one change, however, in the person who is entitled to the exemption on fuel used on farms for farming purposes. Under the bill, certain ground applicators of pesticides, herbicides, and other farm processes are to be treated the same as aerial applicators are treated under present law. Therefore, if the owner, tenant, or operator of a farm served by these applicators consents in writing, the applicator, rather than the owner or operator of the farm, is entitled to the credit for tax paid on fuels used on the farm for farming purposes. This provision does not expand the present law circumstances in which gasoline and other motor fuels are exempt from tax.

Effective Dates

The increases in the motor fuels tax rates are effective for fuels sold after March 31, 1983, and before October 1, 1988.

The provisions exempting certain sales of motor fuels from tax are generally effective with the changes in the rates of the taxes and generally terminate after September 30, 1988. The exemption for fuels used in providing qualified taxicab services is effective on January 1, 1983; that exemption will expire after September 30, 1984. The provision affecting certain ground applicators is effective on April 1, 1983.

The income tax credit for gasohol will terminate with the excise tax exemptions for gasohol, effective on October 1, 1988.

Revenue Effect

It is estimated that the changes relating to the tax on gasoline will increase fiscal year Trust Fund receipts by $2,280 million in 1983, $4,726 million in 1984, $6,962 million in 1985, $6,927 million in fiscal year 1986, $6,934 million in fiscal year 1987, and $6,981 million in 1988.

The changes relating to diesel and special motor fuels will increase Trust Fund receipts by $341 million in 1983, $803 million in 1984, $1,303 million in 1985, $1,394 million in fiscal year 1986, $1,496 million in fiscal year 1987, and $1,607 million in 1988.

B. Excise Taxes on Sale of Trucks and Truck Parts

(Sec. 512 of the Bill and New Sections 4051–4053 and sec. 4061 of the Code)

Present Law

Trucks and truck trailers

A manufacturers excise tax is imposed on the sale of truck chassis and bodies, truck trailer and semitrailer chassis and bodies, and tractors of the kind chiefly used for highway transportation in combination with a trailer or semitrailer (including related parts or accessories). The tax imposed is 10 percent of the selling price of the manufacturer, producer or importer. However, the tax does not apply to the sale of truck chassis and bodies suitable for use with a vehicle which has a gross vehicle weight of 10,000 pounds or less (as determined under regulations prescribed by the Secretary). Also, the tax does not apply to truck trailer and semitrailer chassis and bodies suitable for use with a trailer or semitrailer which has a gross vehicle weight of 10,000 pounds or less (as so determined). Additional exemptions apply to specified articles including ambulances, trash containers, house trailers and certain other articles. However, rail trailers and rail vans are not currently exempted. This manufacturers excise tax on trucks is scheduled to fall to 5 percent on October 1, 1984.

Truck parts and accessories

A manufacturers excise tax is imposed on the sale of parts of accessories (other than tires or inner tubes) for trucks taxed under the manufacturers excise tax. The tax imposed is 8 percent of the selling price of the manufacturer, producer or importer. This tax on parts and accessories is scheduled to fall to 5 percent on October 1, 1984.

Reasons for Change

In light of testimony presented before the committee to the effect that the costs of future highway improvements would be unfairly distributed if the current manufacturers excise tax on trucks were not modified, the committee believes that this tax should be restructured to yield no tax or a lower tax for lighter vehicles and a higher tax for heavier vehicles. In addition, the committee is concerned that the manufacturers excise tax on trucks, because of the amount of tax per article, is likely to create a financial hardship for retail dealers who carry inventories of tax-paid trucks for long periods before those trucks are sold at retail. Therefore, the committee believes that this tax should be imposed on the first retail sale.

The committee finds that the difficulties of determining whether truck parts and accessories are properly subject to tax, and of correcting such determinations, are among the problems which frustrate the effective administration of and compliance with the tax. The committee believes that this tax on parts and accessories should be repealed, with appropriate safeguards to ensure that the excise tax on trucks is not circumvented.

Explanation of Provision

1. Trucks and truck trailers

The bill modifies the excise tax on trucks and truck trailers in several respects.

First, the exclusion from tax is extended to truck chassis and truck bodies suitable for use with a vehicle which has a gross vehicle weight of 33,000 pounds or less. The exclusion from tax also is extended to truck trailer and semitrailer chassis and bodies suitable for use with a trailer or semitrailer which has a gross vehicle weight of 26,000 pounds or less. The committee intends that the same concept of gross vehicle weight will apply as it does under present law. In addition, the bill exempts from this tax rail trailers and rail vans, the chassis or body of which includes as an integral part one or more rail axles and which is designed primarily for use on a railroad. For purposes of this exemption, a piggy-back trailer or semitrailer is not treated as designed primarily for use on a railroad.

Second, the current manufacturers excise tax will be converted to a retail excise tax and the rate of tax will be increased from 10 percent to 12 percent of the price for which an article is sold, beginning on April 1, 1983. In the case where a 10-percent manufacturers excise tax has been paid on an article taxable under the retail excise tax, the tax rate applicable to the retail sale of the article will be 2 percent. The tax will be imposed on the first retail sale of an article, which means the first sale after manufacturing, production, or importation for a purpose other than for resale. As under present law, the rebuilding of a truck will be treated as a manufacture. A person will not be treated as engaged in manufacture merely because an article is combined with an item described in Code section 4063(d). A lease will be considered a sale under rules similar to the present rules of Code section 4217, and use prior to the first retail sale will be treated as a taxable sale. Articles currently exempted from the manufacturers excise tax under section 4063(a), plus rail trailers and rail vans, will be exempt from the retail excise tax. Similarly, exemptions currently provided by section 4221(a) (relating to sales for further manufacture, for export, for use as supplies for vessels or aircraft, to a State or local government, or to a nonprofit educational organization) will apply under the retail excise tax.

For purposes of this tax, retail price will include any charge incident to placing the article in condition ready for use, but will exclude (i) the amount of this tax, (ii) the retail price of tires (inclusive of any federal excise tax thereon), and (iii) the amount of any retail sales tax (if stated as a separate charge) imposed by any State, political subdivision thereof, or the District of Columbia.

Retail price will be determined without regard to any trade-in. If an article is sold otherwise than through an arm's-length transaction at less than the fair market price, the tax will be computed on the price for which similar articles are sold at retail in the ordinary course of business.

Third, the retail excise tax will apply to the installation of parts or accessories on a vehicle taxable under the retail excise tax, if installation occurs within 6 months after the vehicle is first placed in service. The tax imposed on such installations will be 12 percent of the price paid for the part or accessory and its installation. This provision will not apply if the taxable vehicle is fully equipped for service, the part or accessory installed is a replacement, or the aggregate price of the parts and accessories and their installation does not exceed $200 (or such other amounts as the Secretary may prescribe by regulations).

Fourth, the retail excise tax on trucks will expire on October 1, 1988.

2. Truck parts and accessories

The bill repeals the manufacturers excise tax on truck parts and accessories. However, the installation of certain parts will be taxable under the retail excise tax on trucks provided by the bill (as described above).

Effective Dates

The increase in the threshhold weights for exclusion from the excise tax on trucks, the exemption of rail trailers and rail vans, and repeal of the manufacturers excise tax on truck parts and accessories are effective on the day after the date of enactment. To account for the fact that these higher threshhold weights will exclude certain vheicles that are currently taxable and on which the manufacturers excise tax has been paid, a credit or refund (without interest) for the tax paid will be allowed if the article has been sold to an ultimate consumer after December 2, 1982, and before the day after the date of enactment.

The replacement of the manufacturers excise tax on trucks by the retail excise tax on trucks and the increase in the tax rate to 12 percent are effective on April 1, 1983.

Revenue Effect

The provision relating to the excise taxes on the sale of trucks and trailers is estimated to reduce receipts of the Highway Trust Fund by $158 million in fiscal year 1983, have no revenue effect in fiscal year 1984, and to increase receipts by $35 million in fiscal year 1985, $61 million in fiscal year 1986, $74 million in fiscal year 1987, and $79 million in fiscal year 1988.

The repeal of the manufacturers excise tax on truck parts and accessories is estimated to decrease receipts of the Highway Trust Fund by $178 million in fiscal year 1983, $282 million in fiscal year 1984, $308 million in fiscal year 1985, $336 million in fiscal year 1986, $364 million in fiscal year 1987 and $395 million in fiscal year 1988.

C. Heavy Vehicle Use Tax

(Sec. 513 of the bill and secs. 4481–4483 of the Code)

Present Law

An excise tax is imposed on the use on the public highways of any highway motor vehicle which (together with semitrailers and trailers customarily used in connection with highway motor vehicles of the same type as such vehicle) has a taxable gross weight of more than 26,000 pounds. The rate of tax is $3 a year for each 1,000 pounds of taxable gross weight or fraction thereof. The term "taxable gross weight" means the sum of (i) the unloaded weight of the vehicle fully equipped for service, (ii) the unloaded weight of semitrailers and trailers (fully equipped for service) which are customarily used in connection with vehicles of the same type, and (iii) the weight of the maximum load customarily carried on vehicles, semitrailers and trailers of the same type.

The taxable period for the highway use tax is generally the one-year period beginning on July 1. Payment in quarterly installments is permitted. The amount of tax is prorated only when the first use of the vehicle occurs later than the first month of the taxable period. No *de minimus* exemption is provided under present law for vehicles used on the public highways for only a limited number of miles during a taxable period.

The highway use tax is scheduled to expire on October 1, 1984.

Reasons for Change

The committee believes that the current structure of the highway use tax should be changed in order to achieve a more equitable distribution of future costs of highway construction and maintenance. As discussed in the General Reasons (above), the committee believes that the use tax should be lowered for lighter vehicles and raised for heavier vehicles, so that highway user taxes for different types of trucks will be more nearly proportionate to the costs properly allocable to their respective use of the highway system. In addition, the committee believes that an exemption should be provided to prevent the overpayment of tax in cases where the use of public highways is limited.

Explanation of Provision

The bill modifies the use tax in four respects.

First, the highest taxable gross weight of a vehicle not subject to the tax will be raised from 26,000 pounds to 33,000 pounds. The definition of taxable gross weight is not modified by the bill. However, the bill makes it clear that a semitrailer or trailer is to be treated as customarily used in connection with a highway motor vehicle if the vehicle is equipped to tow the semitrailer or trailer.

Second, the rate of tax will be changed from a flat amount per 1,000 pounds to a graduated amount determined by a 3-bracket structure, as follows:

If the taxable gross weight is—		*The rate of tax is—*
At least:	But less than:	
33,000 pounds	55,000 pounds	$60 per year, plus $20 for each 1,000 pounds or fraction thereof in excess of 33,000 pounds.
55,000 pounds	80,000 pounds	$500 per year, plus $60 for each 1,000 pounds or fraction thereof in excess of 55,000 pounds.
80,000 pounds		$2,000 a year.

Third, a new *de minimus* exemption from the tax will apply if a vehicle is used less than 2,500 miles on the public highways during a taxable period. Provided that the owner of the vehicle furnishes such information as the Secretary may require, collection of the tax will be suspended where it is reasonable to expect that use will not exceed 2,500 miles, and no tax will be imposed if use does not in fact exceed that amount. Where the tax is paid and the vehicle is not used for more than 2,500 miles, the amount of tax will be credited or refunded (without interest) to the owner. Under regulations prescribed by the Secretary, an owner of a vehicle, with respect to which the tax was suspended, may protect himself against subsequent liability for this tax when the vehicle is transferred by furnishing appropriate information to the Secretary.

Fourth, the highway use tax will expire on October 1, 1988.

In addition, the bill directs the Secretary of Transportation (in consultation with the Secretary of the Treasury, State officials, motor carriers and other affected parties) to study alternative forms of the highway use tax, study plans for the better administration of the tax, and report findings and recommendations to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate before January 2, 1985. Beginning January 1, 1985, a State must require proof of payment of the highway use tax before registering trucks in the State, under penalty of loss of its highway apportionment for the fiscal year (as provided in the Public Works Committee bill, H.R. 6211).

Effective Date

In general, the provision will be effective on January 1, 1984.

Because this date would otherwise be the midpoint of an annual taxable period, the bill provides for two short taxable periods. Present law will apply to the first short taxable period (July 1, 1983 through December 31, 1983) and the tax rate for this period will be one-half the current annual rate. The restructured use tax provided by the bill will apply to the second short taxable period (January 1, 1984 through June 30, 1984). The tax rate for this period will be one-half the new annual rate, and the new exemption will be for uses of 1,250 miles or less during this short taxable period. The Secretary shall by form or regulation provide for appropriate installment payments with respect to these two short taxable periods, such that no more than two installment payments may be made for any such short taxable period.

Revenue Effect

The provision is estimated to decrease receipts of the Highway Trust Fund by $67 million in fiscal year 1983, and to increase receipts by $429 million in fiscal year 1984, $904 million in fiscal year 1985, $942 million in fiscal year 1986, $981 million in fiscal year 1987 and $1,021 million in fiscal year 1988.

D. Taxes on Tires, Tubes, and Tread Rubber

(Sec. 514 of the bill and secs. 4071-4073 of the Code)

Present Law

Excise taxes are imposed on the sale by a manufacturer, producer or importer of tires, inner tubes and tread rubber. The taxes are based on weight: tires for use on highway vehicles are taxes at 9.75 cents per pound; inner tubes for tires are taxed at 10 cents per pound; and tread rubber for use in recapping or retreading highway type tires is taxed at 5 cents per pound. On and after October 1, 1984, these taxes will decrease to the non-highway rate of 4.875 cents per pound for tires and 9 cents per pound for inner tubes; and the tax on tread rubber will expire. Tires, other than laminated tires, that are not intended for highway use are taxed at 4.875 cents per pound. (Examples of such nonhighway tires are those for aircraft, earth movers, and other nonhighway vehicles.) Laminated tires, which are tires not designed for highway use, are taxed at 1 cent per pound.

Reasons for Change

The committee believes that the present highway excise tax structure should be restructured, simplified, and that nuisance taxes should be repealed. As part of the restructuring of the highway excise taxes, the committee concluded that the tire and tread rubber taxes should apply only to the highway tires generally used by heavier trucks, and that the taxes on nonhighway-type tires should be repealed. This is generally consistent with the highway cost allocation study recommendations of the Department of Transportation and the Administration proposal. As a result, the committee concluded that the tax on inner tubes and laminated tires should be repealed as a means of simplifying the highway excise taxes.

Explanation of Provisions

Under the bill, the taxes on inner tubes, laminated tires and all nonhighway tires are repealed. The tax also is repealed on highway tires weighing 100 pounds or less and on rubber used to retread tires of 100 pounds or less. Highway tires weighing more than 100 pounds will be taxed at 25 cents a pound, as will tread rubber used on tires in excess of that weight.

Effective Date

The changes in the application of the excise taxes on tires, tubes, and tread rubber will be effective on January 1, 1984. The taxes will expire on October 1, 1988.

Revenue Effect

The changes in the tax on tires will reduce highway excise tax revenues by $364 million in fiscal year 1984, $525 million in fiscl year 1985, $556 million in fiscal year 1986, $557 million in fiscal year 1987, and $601 million in fiscal year 1988.

The changes in the tax on tread rubber will increase highway excise tax revenues by $22 million in fiscal year 1984, and by $33 million per year in fiscal years 1985-1988.

The repeal of the tax on inner tubes will reduce highway excise tax revenues by $17 million in fiscal year 1984, and by $22 million per year in fiscal years 1985-1988.

E. Tax on Lubricating Oil

(Sec. 515 of the bill and secs. 4091-4093 of the Code)

Present Law

The sale of lubricating oil is subject to a 6-cents per-gallon tax that is levied on the manufacturer or producer. (This tax is not scheduled to be reduced on October 1, 1984.) Exemptions are provided for oil sold for use in cutting or machining operations on metals. An exemption also applies to sales of rerefined oil. Rerefined oil must be composed of at least 25 percent used or waste lubricating oil that has been cleaned and no more than 55 percent previously unused lubricating oil.

Reasons for Change

As part of the restructuring and simplification of the highway excise taxes, the committee concluded that the tax on lubricating oil could be repealed without adversely affecting the allocation of highway use taxes among lighter and heavier vehicles. That is, the taxes on motor fuels adequately reflect the proper cost responsibility of automobiles and lighter weight trucks without the tax on lubricating oil. The repeal of the tax is warranted also as a further means of simplifying the highway excise taxes.

Explanation of Provision

The bill repeals the tax on lubricating oil.

Effective Date

The repeal of the tax on lubricating oil is effective on the day after the date of enactment.

Revenue Effect

This provision will reduce highway excise tax revenues by $68 million in fiscal year 1983, $86 million in fiscal year 1985, and $80 million per year in fiscal years 1986-1988.

F. Floor Stocks Provisions

(Secs. 521-523 of the bill)

Present Law

Floor stocks taxes are imposed on inventories of articles with respect to which a tax rate is increased. Present law includes no floor stocks taxes with respect to articles subject to the highway excise taxes.

Floor stocks taxes have been imposed with respect to these articles and other articles in the past when tax rates have been increased. For example, in 1982, the Tax Equity and Fiscal Responsibility Act imposed a floor stocks tax on certain cigarettes held other than in bonded premises on January 1, 1983, the date when the excise tax on cigarettes is scheduled to increase.

Floor stocks refunds are refunds of taxes paid on inventories of articles with respect to which a tax rate is decreased. Present law includes provisions for floor stocks refunds of the highway excise taxes on trucks, tires, tread rubber and gasoline when those taxes are scheduled to be reduced, effective October 1, 1984 (Code sec. 6412(a)).

Floor stocks provisions tax or permit refunds with respect to manufacturers excise taxes because those taxes are included in the cost of inventories. On the other hand, retailers excise taxes, such as the excise taxes on diesel and special motor fuels, are not paid before sale to an ultimate purchaser, and are not, therefore, reflected in inventory costs. Accordingly, floor stocks provisions do not apply to retailers taxes.

Reasons for Change

Floor stocks taxes and refunds are designed to prevent distortion of markets upon the occasion of a manufacturers excise tax increase or decrease. This distortion could result if dealers artificially increased inventories immediately before a tax increase, or in the case of a declining tax rate, if dealers chose to delay purchases until the tax rate declined. The committee believes that decisions such as when and how much inventory to maintain should not be influenced the impending changes in the rate of tax imposed on such articles.

Explanation of Provisions

1. Floor stocks taxes

The bill imposes a floor stocks tax on gasoline held for sale by a dealer on April 1, 1983, if the gasoline would otherwise be subject to tax under section 4081 if held by a producer on that date. For purposes of this tax, a dealer is defined to include a wholesaler, jobber, distributor, or retailer. An article is considered to be held by a dealer if title has passed to the dealer, whether or not the dealer has actual possession of the article.

The floor stocks tax on gasoline is due and payable, by return, on May 15, 1983. Generally, this provides additional time for payment of this tax beyond that allowed for payment of the regular tax on gasoline.

The bill also imposes floor stocks taxes on tires and tread rubber held for sale by a dealer on January 1, 1984, which would be subject to the excise taxes imposed under section 4071 if held by a manufacturer on that date. For purposes of the floor stocks taxes on tires and tread rubber, the term dealer and the circumstances when a dealer is considered to hold tires and tread rubber for sale on January 1, 1984, are defined in the same manner as for the floor stocks tax on gasoline.

The floor stocks tax on tires and tread rubber are due and payable, by return, on February 15, 1984. Generally, this provides additional time for payment of this tax beyond that allowed for payment of the regular taxes on tires and tread rubber.

The amount of these floor stocks taxes is equal to the excess of the new tax rates over that previously paid with respect to the articles.

Revenues from the floor stocks taxes will be transferred to the Highway Trust Fund.

2. Floor stocks refunds

The bill provides for floor stocks refunds of tax paid on articles on which the manufacturers excise taxes are repealed if certain conditions are satisfied. First, the tax-repealed articles must be held for sale by a dealer on the date the tax is repealed. Second, the manufacturer must have records to substantiate his claim that he or she paid the repealed tax on the article. Third, the manufacturer must file a claim with the Internal Revenue Service within ten months after the date on which the excise tax is repealed (e.g., the day after the date of enactment for certain articles; January 1, 1984 for other articles such as tires and tread rubber).

The manufacturer must also reimburse the dealer in an amount equal to the tax or must obtain the written consent of the dealer to the manufacturer's receiving the floor stocks refund. The committee intends that the manufacturer receive the written consent or possess evidence of reimbursement of the dealer before (or simultaneous with) the time any payment is made or credit granted by the Internal Revenue Service.

The bill also provides for refunds or credits to manufacturers for tax paid with respect to certain trucks and truck trailers that are sold to ultimate purchasers between December 2, 1982, and the date of enactment. To receive these refunds or credits, manufacturers must file a claim with the Internal Revenue Service. This claim must include information similar to that required for refunds with respect to trucks held by dealers on the date of enactment, except the ultimate purchaser, rather than the dealer, must have been reimbursed for the amount of tax previously paid by the manufacturer.

Tax-repealed articles include trucks with a taxable gross weight of 33,000 pounds or less, trailers with a like weight of 26,000 pounds or less, lubricating oil, and highway tires weighing 100 pounds or less and tread rubber used on such tires.

Amounts equivalent to the amount of the floor stocks refunds will be transferred from the Highway Trust Fund to the general fund of the Treasury so the Trust Fund will bear the cost of these refunds.

Effective Dates

The floor stocks provisions are effective on the date of the increase or repeal of the manufacturers excise taxes to which they relate.

Revenue Effect

The revenue effect of the floor stocks provisions is included in the revenue changes for the taxes to which they relate.

G. Termination of Highway Excise Taxes and Exemptions

Present Law

Some of the Highway Trust Fund excise taxes were imposed before enactment of the Highway Trust Fund in 1956. At the time of the Trust Fund's enactment, those existing taxes were increased and new taxes imposed. Because of the special purpose for which the taxes are imposed, they have been scheduled to expire (or be reduced to their pre-Trust Fund levels) upon the scheduled termination of the Trust Fund.

The present motor fuels taxes (gasoline, diesel, and special fuels) are scheduled to decline from 4 cents per gallon to 1½ cents per gallon on October 1, 1984. The present manufacturers excise tax on trucks and trailers is scheduled to decline from 10 percent to 5 percent on that date, and the 8 percent tax on truck parts and accessories is scheduled to decline to 5 percent.

The tax on highway tires is scheduled to decline to 4.875 cents per pound on October 1, 1984, and the tax on tread rubber is scheduled to expire on that date. The tax on highway use of certain trucks is also scheduled to expire after September 30, 1984.

Present law also provides exemptions from these taxes for differing periods of time. (A full explanation of the scope of these exemptions can be found in the discusson of the particular tax concerned.) Some of the exemptions are of unlimited duration (e.g., the exemptions for State and local governmental and farming uses) and others are granted for only limited periods of time (e.g., the exemptions for gasohol which are scheduled to terminate after December 31, 1992).

Reasons for Change

The committee believes that the Highway Trust Fund excise taxes should terminate at the same time that the Trust Fund terminates under the bill, September 30, 1988. Likewise, the income tax credit for gasohol should terminate at the same time the excise tax exemptions for that fuel terminate. The committee also believes that the goal of simplifying the tax law is furthered if all exemptions, other than those which the committee wishes to examine earlier, terminate with the taxes to which they relate.

If Congress determines that it is not appropriate to extend the Trust Fund after September 30, 1988, termination of the highway excise taxes will facilitate its consideration of which highway excise taxes, if any, it is appropriate to levy without their dedication to highway and mass transit purposes.

Explanation of Provisions

All of the Highway Trust Fund excise taxes continued under the bill terminate, effective on October 1, 1988. The exemptions from these taxes generally are also terminated on this date. However, the exemptions for fuels used in providing qualified taxicab services terminate after September 30, 1984.

To conform with the termination of the gasoline tax on September 30, 1988, the income tax credit for alcohol fuels is terminated on that date.

Certain excise taxes are repealed by the bill, either in whole or in part. The taxes on laminated tires, all nonhighway tires and inner tubes are repealed, effective January 1, 1984. The taxes on lubricating oil, truck parts and accessories, trucks (with a gross vehicle weight of less than 33,000 pounds), and trailers (with a gross vehicle weight of less than 26,000 pounds) are repealed on the day after the date of enactment. The taxes on highway tires weighing 100 pounds or less and on tread rubber used on such tires are repealed after December 31, 1983. The highway use tax on trucks with a taxable gross weight under 33,000 pounds is repealed, effective after December 31, 1983.

H. Highway Trust Fund Provisions

(Sec. 531 of the bill and sec. 9503 of the Code)

Present Law

Original enactment of the Highway Trust Fund

The Highway Trust Fund was established in 1956 (P.L. 84–627) for a 16-year period to provide a specific source of financing for the new Interstate Highway System and continuation of other Federal-aid highway programs. The other highway-aid programs previously had been financed through the general fund.

The Highway Revenue Act of 1956 included a declaration of congressional policy that (1) if it appears that the total receipts of the Trust Fund will be less than the total expenditures from the Trust Fund, or (2) if it appears that the distribution of the tax burden among the various classes of highway users or other beneficiaries of the highways is not equitable, then Congress is to enact legislation to bring about a balance of total Trust Fund receipts and expenditures or to make an equitable distribution of the tax burden. In addition, the 1956 Act provided for a 3-year highway cost allocation study (later extended for 2 additional years) to determine the fair distribution of highway-related user taxes among the various users.

The 1956 Act also contained a provision—the "Byrd amendment"—to prevent the Trust Fund from reaching a deficit position. In general, this provision originally required that if Trust Fund balances and estimated future receipts will be inadequate to cover obligations as they become due, a reduction of the Interstate Highway System apportionment in an amount sufficient to eliminate the difference would be required.

Subsequent extensions of the Trust Fund

The Highway Trust Fund and the related highway excise taxes have been extended three times since 1961: a 5-year extension in the Federal-Aid Highway Act of 1970 (from September 30, 1972, through September 30, 1977), a 2-year extension in the Federal-Aid Highway Act of 1976 (through September 30, 1979), and a 5-year extension in the Surface Transportation Assistance Act of 1978 (through September 30, 1984). These Trust Fund extensions were added by the tax writing committees as a separate title to a highway authorization bill and involved only the extensions of existing highway excise taxes and tax rates.

In the 1978 Act, the operation of the "Byrd amendment" was modified to require that when anticipated revenues are insufficient to cover expenditures, reductions will be made on a pro rata basis to all apportioned highway funds, rather than to interstate apportionments only. Finally, two studies were required: a cost allocation study to be conducted by the Department of Transportation, with a final report to Congress by January 15, 1982; and a study of the highway excise tax structure to be conducted by the Department of Treasury, with a final report to Congress by April 15, 1982. (The highway cost allocation study was submitted to Congress on May 13, 1982. A second progress report on the excise tax study was submitted on October 1, 1981, but a final report has not been submitted.)

Highway Trust Fund expenditure purposes

Since its enactment in 1956 and through bills enacted since then, the Highway Trust Fund has been used to finance construction of the Interstate Highway System, other Federal-aid highways, and other Federal highway-aid programs. The highway programs currently supported by expenditures from the Trust Fund are listed below:

(1) ***Interstate highway system***—

(a) Construction to close gaps in the nearly completed basic Interstate system;

(b) Resurfacing, restoring, rehabilitating and reconstructing ("4Rs") previously completed sections.

(2) ***Primary highway system***—

(a) Construction and reconstruction and related planning;

(b) Resurfacing, restoring, rehabilitating these highways.

(3) ***Urban and rural area transportation program***—Assistance in urban and rural areas in construction, rehabilitation and reconstruction of local roads, and related planning and research; public transportation capital expenditures; safety improvements and traffic system management. (Urban areas have more than 50,000 persons; rural areas less than that population.)

(4) ***Bridge program***—Rehabilitating or replacing structurally deficient bridges.

(5) ***Construction and other highway-related safety programs***—Establishment of safety programs and to build safety into highways during their construction, including such things as pavement marking, and elimination of roadside hazards and highway rail crossings.

(6) ***Emergency highway relief programs***—Highway funds relating to disaster relief.

(7) ***Administration and research through the Federal Highway Administration***—Involving (a) coordination and direction of various public programs and requirements, (b) general program support affecting policy plans and projections and administrative support, and (c) engineering and financial assistance.

(8) ***Additional programs***—The Highway Trust Fund contributes a share of costs of certain other programs, including the following: Forest and public lands highways; Economic growth center highways; National scenic and recreational highways; Railroad-highway crossing demonstration projects; Rural highway public transportation demonstration projects; Bicycle pathway programs; Highway safety research and development; Car and van pool projects; and, Right-of-way revolving fund.

Reasons for Change

The federal highway program authorizations in the titles of H.R. 6211, reported by the Committee on Public Works and Transportation, and the Administration's recommendations for the same purposes, are directed at completing the Federal Interstate Highway System and maintaining that system and other parts of the Federal-Aid highway system in usable and safe condition. These continuing highway responsibilities involve completing the interstate highway system, expanding a program of resurfacing, restoring, rehabilitating and reconstructing parts of the system as conditions require, and extending the same restoration program to deteriorating portions of the Federal-Aid highway system and highway bridges.

In order that the federal highway programs may continue to be financed by the users of the highways at a rate commensurate with their use of the system, the Highway Trust Fund is extended for a period long enough to pay the financial obligations that will result from the increased authorizations in H.R. 6211. The character of the Highway Trust Fund is extended without essential change, although as a policy of codification of directly tax-related trust funds, the Highway Trust Fund is transferred to the Internal Revenue Code.

Explanation of Provisions

1. Extension of the Trust Fund

The Highway Trust Fund is extended by the bill for an additional 4 years, from its present expiration date of September 30, 1984, through September 30, 1988. In addition, the Trust Fund is transferred to the Internal Revenue Code (as a new section 9503) on January 1, 1983, and the present statutory provision of the Trust Fund in section 209 of the Highway Revenue Act of 1956 is repealed simultaneously. For all purposes of law and any reference in any law, the Highway Trust Fund established in the Internal Revenue Code by the committee bill is to be treated as a continuation of this Trust Fund in its earlier statutory provisions.

2. Revenues appropriated to the Trust Fund

There are appropriated to the Highway Trust Fund amounts equivalent to the taxes received in the Treasury under the provisions relating to the taxes on (a) diesel and special motor fuels (sec. 4041), (b) heavy trucks and trailers (sec. 4051), (c) trucks and truck parts (sec. 4061), (d) tires and tread rubber (sec. 4071), (e) gasoline (sec. 4081), (f) lubricating oil (sec. 4091), and (g) use of certain vehicles (sec. 4481). Taxes received after the expiration date of the trust fund and before July 1, 1989, that are attributable to liabilities incurred before October 1, 1988, also are appropriated to the trust fund. Amounts appropriated to the Airport and Airway Trust Fund from the tax on aviation fuels are deducted beforehand from the amounts deposited in the Highway Trust Fund.

3. Expenditures and transfers from the Trust Fund

Expenditures may be made before October 1, 1988, from the Trust Fund, as provided by appropriation Acts, to meet obligations which have been incurred after authorization by law to be paid out of the Highway Trust Fund established by section 209 of the Highway Revenue Act of 1956, or authorized by law to be paid out of the Highway Trust Fund (in sec. 9503 of the code) under title I or II of the Surface Transportation Assistance Act of 1982. Expenditures also may be made from the Trust Fund to meet obligations that have been incurred which are authorized by a law which does not authorize the expenditure out of the Highway Trust Fund of any amount for a general purpose not covered in the 1956 Act and the 1982 Act cited above, as in effect on December 31, 1982.

Expenditures from the Highway Trust Fund for highway purposes may not be made from the Mass Transit Account, which is described in section I, below.

Transfers of funds may be made from the Trust Fund to the general fund for amounts paid before July 1, 1989, that are for tax credits or other payments attributable to non-highway uses of motor fuels and lubricating oil and for floor stock refunds on the basis of claims filed for periods ending before October 1, 1988.

Motorboat fuel taxes (or equivalent amounts) are transferred to the National Recreational Boating Safety and Facilities Improvement Fund through September 30, 1988. The aggregate amount transferred in any fiscal year may not exceed $45 million, and no transfers of these amounts may be made if they will increase the amount in the Boating Safety Fund above $45 million. Any other amounts of motorboat fuels taxes will be transferred to the Land and Water Conservation Fund. Motorboat fuels taxes are defined as the taxes received from gasoline and special fuels used in motorboats.

4. Anti-deficit provision ("Byrd amendment")

The provision (the "Byrd amendment") that assures the Highway Trust Fund is maintained as a self financing entity is revised in order to clarify certain ambiguities and to improve its operation.

As a result, at least once in each calendar quarter, the Secretary of Treasury—after consultation with the Secretary of Transportation—shall estimate the unfunded highway authorizations at the close of the next fiscal year and the net receipts of the Highway Trust Fund for the 24-month period beginning at the close of such fiscal year. In the event the unfunded authorizations exceed the estimated receipts, the Secretary shall inform the Secretary of Transportation of the amount of the excess authorizations. The Secretary of Transportation in this event shall determine the percentage that the excess is of the apportionment to the States for that next fiscal year, and he shall reduce the apportionment to the States by that percentage. If a subsequent quarterly estimate indicates that the excess unfunded authorizations are a smaller amount, or there is no such excess, the apportionments to the States shall be adjusted accordingly.

Effective Date

There provisions will become effective on January 1, 1983.

I. Mass Transit Account

(Sec. 531 of the bill and sec. 9503(e) of the Code)

Present Law

There is no transit account in the Highway Trust Fund and no transit trust fund that receives tax receipts designated for deposit in such an account or fund.

Reasons for Change

Rail and bus transit systems move millions of people daily. They complement and are interdependent with highways in moving people and goods efficiently and economically in and around urban areas. Capital investment in these systems has not kept pace in recent decades with growth requirements or the deterioration of the existing capital structure. The Administration has estimated that capital investment needs for urban rail and bus transit could total almost $50 billion over the next decade.

In order to address transit needs, the bill provides that the equivalent of 1 cent of the 9 cents a gallon fuels taxes in the bill be available for capital improvements to mass transit through fiscal year 1988. This provision will provide about $1.1 billion each fiscal year, and these funds will be in addition to the amounts appropriated from the general funds of the Treasury for mass transit.

Explanation of Provision

Under the bill a separate Mass Transit Account is established in the Highway Trust Fund. It consists of the revenue equivalent to the amount raised by 1 cent a gallon of the 9 cents a gallon excise taxes imposed on gasoline and diesel and special motorboat fuels (secs. 4041 and 4081). These amounts are to be transferred to the Mass Transit Account with the same regularity and under the same conditions as amounts from these taxes are transferred to the Highway Trust Fund. Interest earned as a result of investment in United States securities on the portion of amounts in the Highway Trust Fund that are attributable to the Mass Transit Account shall be credited to the Mass Transit Account.

Amounts in the Mass Transit Account shall be available, as provided by appropriation acts, for making capital expenditures (including capital expenditures for new projects) before October 1, 1988, under section 3 of the Urban Mass Transportation Act of 1964. Expenditures from the Mass Transit Account may be made only for mass transit purposes, and no expenditures may be made from this account for highway purposes.

In approving capital expenditures for new transit systems, it is the committee's belief that preference should be given to projects which maximize the cost-effectiveness of the federal contribution including use of existing infrastructure, like existing track, or substantial non-federal capital contribution.

Unfunded authorizations also are limited to the amount of estimated net receipts for the Mass Transit Account. The Secretary of the Treasury each calendar quarter, after consultation with the Secretary of Transportation, shall estimate the amount of the unfunded mass transit authorizations from the Mass Transit Account at the close of the next fiscal year and the net receipt of the Mass Transit Account for the 12-month period beginning at the close of such fiscal year. If the unfunded authorizations are estimated to exceed the 12-month receipts estimate, apportionments to the States shall be reduced uniformly by the percentage that the excess is to the total apportionment. If subsequent estimates indicate that there will be no excess unfunded authorizations, or a smaller excess, apportionments to States shall be increased accordingly.

Effective Date

The provision establishing the Mass Transit Account shall take effect on January 1, 1983.

J. Treatment of Motor Carrier Operating Authorities Held by Corporations Acquired by Noncorporate Taxpayers

(Sec. 517 of the bill and sec. 266(c)(2) of the Economic Recovery Tax Act of 1981)

Present Law

The Economic Recovery Tax Act of 1981 provided that an ordinary deduction is allowed ratably over a 60-month period for taxpayers who held one or more motor carrier operating authorities on July 1, 1980. The amount of the deduction is the total adjusted bases of all motor carrier operating authorities either held by the taxpayer on July 1, 1980, or acquired after that date under a binding contract in effect on July 1, 1980. The 60-month period begins July 1, 1980 (or, at the taxpayer's election, with the first month of the taxpayer's first taxable year beginning after July 1, 1980).

Under the Act, adjustments are to be made to the bases of operating authorities held on July 1, 1980 (or acquired thereafter under a binding contract in effect on July 1, 1980) to reflect amounts allowable as deductions.

Under regulations to be prescribed by the Treasury Department, an election may be made by the taxpayer holding an operating authority on July 1, 1980, to allocate to the operating authority a portion of the cost basis to the acquiring corporation of stock in an acquired corporation. The election is available only if the operating authority was held directly by the acquired corporation at the time its stock was acquired or was held indirectly through one or more other corporations. In either case, a portion of the stock basis may be allocated to the operating authority only if the acquiring corporation would have been able, if it had received the operating authority in one or more corporate liquidations immediately following the stock acquisition, to allocate such portion to the operating authority under section 334(b)(2). The election applies only if the stock was acquired on or before July 1, 1980 (or pursuant to a binding contract in effect on such date) and only if, on the date the stock was acquired, the acquired corporation held, directly or indirectly, the operating authority.

In all cases, adjustments are also to be made to the basis of the acquiring corporation in the stock of the acquired corporation to take into account any allocation of the basis in the stock to an operating authority. In addition, the Treasury regulations are in all cases to provide for an appropriate adjustment to the basis of other assets.

Reasons for Change

It has come to the attention of the committee that certain corporations holding motor carrier operating authorities were acquired by noncorporate taxpayers in situations where, had the purchaser been a corporation, the basis of the authority would have been increased. The committee believes that similar treatment should be afforded corporations holding authorities regardless of whether or not the purchaser of the corporation's stock was another corporation.

Explanation of Provision

Under the bill, if one or more noncorporate taxpayers on or before July 1, 1980, acquired in one stock purchase the stock of a corporation which, at the time of acquisition, held directly or indirectly any motor carrier operating authority, the acquisition shall be treated, for purposes of the provisions of section 266(c)(2) of ERTA (relating to certain stock acquired), as having been acquired by a single corporation. Thus, the basis of the operating authority may be adjusted to reflect the stock acquisition price. In order to qualify for these adjustments, the purchasers must have held at least 80 percent of the corporate stock on July 1, 1980.

Rules similar to the rules applicable to authorities held by corporations acquired by a corporate purchaser are to apply to authorities of corporations acquired by noncorporate purchasers.

Effective Date

The provision is effective for taxable years ending after June [illegible] 1980.

Revenue Effect

This provision is estimated to reduce fiscal year budget receipts by less than $5 million.

IV. REVENUE EFFECTS OF THE BILL

In compliance with clause 7 of Rule XIII of the the Rules of the House of Representatives, the following statement is made about the effect on the budget of this bill, H.R. 7368.

The revenue effects of the bill as approved by the committee are summarized in three tables.

Table 2 presents the estimated changes in Highway Trust Fund tax revenues by major component compared to receipts under current tax rates extended through 1988. Total Highway Trust Fund revenues are projected to increase by $2.2 billion in fiscal year 1983, $5.2 billion in 1984, $5.6 billion during each of the next three years, and $5.7 billion in 1988. The table also shows the net revenue effects of the bill, which take into account the decreases in income taxes resulting from higher excise taxes. The net revenue effects on budget receipts are estimated at $1.6 billion in fiscal year 1983, $3.9 billion in 1984, $4.2 billion in 1985, $4.2 billion in 1986, $4.3 billion in 1987, and $4.3 billion in 1988.

Table 3 provides comparable data but the revenue changes have been calculated from receipts that would have been collected under rate reductions or expirations scheduled for 1984. Consequently, the revenue gains shown in this table are substantially higher than those in Table 2 for fiscal years beginning with 1985: $9.7 billion in 1985, $10.0 billion in 1986, $10.1 billion in 1987, and $10.4 billion in 1988.

Finally, table 4 shows total estimated Highway Trust Fund tax revenues under the bill for fiscal years 1983–1988. Total Trust Fund tax revenues will increase from $6.7 billion actual in fiscal year 1982 to $8.6 billion in fiscal year 1983, $12.1 billion in fiscal year 1984, and $13.8 billion in fiscal year 1988.

Table 2.—Estimated Changes in Highway Trust Fund Revenues Under the Ways and Means Committee Amendment Compared to Receipts at Current Tax Rates Extended Through Fiscal Year 1988

[Fiscal years, million dollars]

Tax	1983	1984	1985	1986	1987	1988
Gasoline	2,280	4,726	4,665	4,617	4,611	4,654
Diesel	341	803	861	919	984	1,057
Trucks and trailers	−158		35	61	74	79
Truck parts	−178	−282	−308	−336	−364	−395
Tires		−364	−525	−556	−577	−601
Tubes		−17	−22	−22	−22	−22
Tread rubber		22	33	33	33	33
Lubricating oil	−68	−86	−80	−80	−80	−80
Use tax	−67	429	904	942	981	1,021
Total Tax Revenues	**2,150**	**5,231**	**5,563**	**5,578**	**5,640**	**5,746**
Net revenue effect on budget receipts after income offsets	**1,625**	**3,947**	**4,196**	**4,208**	**4,256**	**4,335**

Table 3.—Estimated Changes in Highway Trust Fund Revenues Under the Ways and Means Committee Amendment Compared to Present Law, Fiscal Years 1983–88

[Million dollars]

Tax	1983	1984	1985	1986	1987	1988
Gasoline	2,280	4,726	6,962	6,927	6,934	6,981
Diesel	341	803	1,303	1,394	1,496	1,607
Truck and trailers	–158		716	819	888	965
Truck parts	–178	–282	–192	–210	–228	–247
Tires		–364	–190	–201	–209	–218
Tubes		–17	–20	–20	–20	–20
Tread rubber		22	55	55	55	55
Lubricating oil	–68	–86	–80	–80	–80	–80
Use tax	–67	429	1,191	1,241	1,293	1,346
Total Tax Revenues	**2,150**	**5,231**	**9,745**	**9,925**	**10,129**	**10,389**
Net revenue effect on budget receipts after income offsets	**1,625**	**3,947**	**7,333**	**7,468**	**7,623**	**7,817**

Table 4.—Estimated Highway Trust Fund Tax Revenues Under the Ways and Means Committee Amendment, Fiscal Years 1983–88

[Million dollars]

Tax	1983	1984	1985	1986	1987	1988
Gasoline	6,191	8,484	8,412	8,374	8,389	8,439
Diesel	968	1,457	1,567	1,680	1,802	1,935
Trucks and trailers	610	1,102	1,397	1,578	1,702	1,850
Truck parts	64	0	0	0	0	0
Tires	530	271	147	157	163	169
Tubes	20	5	0	0	0	0
Tread rubber	21	44	55	55	55	55
Lubricating oil	12	−6	0	0	0	0
Use tax	161	704	1,191	1,241	1,293	1,346
Total Tax Revenues	**8,577**	**12,061**	**12,769**	**13,085**	**13,404**	**13,794**

V. VOTE OF THE COMMITTEE AND OTHER MATTERS TO BE DISCUSSED UNDER HOUSE RULES

A. Vote of the Committee

In compliance with clause 2(l)(2)(B) of Rule XI of the House of Representatives, the following statement is made about the vote of the committee on the motion to report the bill. The bill, H.R. 7368, was ordered favorably reported under a unanimous consent agreement. The committee agreed that the text of this bill would be offered on the House floor as the revenue title (title V) to H.R. 6211, the Surface Transportation Assistance Act of 1982; and this report is designed to provide the official legislative history for that amendment.

B. Other Matters

In compliance with clause 3(l)(3) and 2(l)(4) of Rule XI of the Rules of the House of Representatives, the following statements are made with respect to the committee action on H.R. 7368.

Oversight Findings

With respect to subdivision (A) of clause 2(l)(3) (relating to oversight findings), the committee advises that it was as a result of the committee's oversight activities with respect to the need to finance the increased level of Highway Trust Fund authorizations for fiscal years 1983–1986 approved by the Committee on Public Works and Transportation (H.R. 6211, as reported with committee amendment) that the committee concluded that it is appropriate to enact the provisions contained in the bill (the text of which is to be offered as title V of H.R. 6211).

The committee concluded in its review of the highway excise tax structure that a greater share of the highway cost allocation should be borne by the heaviest trucks as compared to lighter trucks. Therefore, the committee bill restructures the use tax on heavy motor vehicles and eliminates the use tax on trucks below 33,000 pounds; eliminates the manufacturers tax on new trucks of less than 33,000 pounds and on truck trailers of less than 26,000 pounds; and eliminates the taxes on highway tires of 100 pounds or less and on tread rubber for such tires.

In addition, the committee decided that certain other relatively minor or nuisance highway excise taxes should also be repealed in order to simplify the administration of and compliance with excise taxes. Thus, the excise taxes on truck parts and accessories, lubricating oil, inner tubes, and nonhighway and laminated tires are repealed under the committee bill.

Further, the committee's review of the operation of the Highway Trust Fund resulted in the committee decision to transfer the

Trust Fund statute to the Internal Revenue Code and to modify the anti-deficit provisions of the Trust Fund. Finally, the committee agreed to establish a Mass Transit Account in the Trust Fund in order to provide a specified revenue source for certain mass transit capital expenditures.

New Budget Authority and Tax Expenditures

With respect to subdivision (B) of clause 2(l)(3), after consultation with the Director of the Congressional Budget Office, the committee states that the changes made to existing law by this bill involve no new budget authority or new tax expenditures, but involve increased tax expenditures of less than $5 million per year for the provision relative to deduction for motor carrier operating rights.

Consultation with Congressional Budget Officials on Budget Estimates

With respect to subdivision (C) of clause (2)(l)(3), the committee advises that the Director of the Congressional Budget Office has examined the committee's revenue estimates (as indicated in part IV of this report) and submitted the following statement:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., December 6, 1982.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means,
U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In accordance with the Budget Act, the Congressional Budget Office has examined Title V of H.R. 6211, the Surface Transportation Act of 1982. This bill revises present highway user taxes and extends the Highway Trust Fund. In addition, revenues equivalent to 1 cent per gallon of the fuels taxes are earmarked for a mass transit account.

Title V does not provide any new budget authority or any new tax expenditures.

In accordance with Section 403 of the Budget Act, the Congressional Budget Office has reviewed the estimates and methodology of the staff of the Joint Committee on Taxation, and agrees with the resulting estimates. The bill is estimated to increase net budget receipts by the following amounts, after taking offsetting income tax reductions into account:

Fiscal years, in billions of dollars					
1983	1984	1985	1986	1987	1988
1.6	3.9	4.2	4.2	4.3	4.3

Sincerely,

ALICE M. RIVLIN, *Director.*

Oversight by Committee on Government Operations

With respect to subdivision (D) of clause 2(l)(3), the committee advises that no oversight findings or recommendations have been submitted to the committee by the Committee on Government Operations regarding the subject matter of this bill.

Inflationary Impact

In compliance with clause 2(l)(4), the committee states that the enactment of this bill is expected to result in some increases in prices and costs in the operation of the national economy, due to the increased excise taxes on motor fuels of 5 cents a gallon on April 1, 1983. Also, there will be some increase in retail prices of new heavy trucks and truck trailers due to the increased tax rate from 10 percent of the manufacturers price to 12 percent of the retail price effective on April 1, 1983. In addition, for highway tires in excess of 100 pounds and tread rubber for such tires, there will be an increase of the highway tire tax from 9.75 cents to 25 cents per pound and from 5 cents to 25 cents for such tread rubber, effective January 1, 1984.

On the other hand, there will be some cost reductions as a result of the repeal of several highway excise taxes: the 6-cents-a-gallon tax on lubricating oil (day after the date of enactment); the current 10-percent manufacturers tax on new trucks of 10,000–33,000 pounds and on truck trailers of 10,000–26,000 pounds (day after date of enactment); the 8-percent manufacturers tax on truck parts and accessories (day after the date of enactment); and the taxes on nonhighway tires, laminated tires, inner tubes, highway tires of 100 pounds or less, tread rubber for highway tires of 100 pounds or less, and the use tax on motor vehicles of 26,000–33,000 pounds (on January 1, 1984). Moreover, the expenditures authorized from the Highway Trust Fund will provide for improved and safer bridges and highway and transit systems, which will increase highway and transit transportation efficiencies in the national economy.

VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

INTERNAL REVENUE CODE OF 1954

* * * * * * *

Subtitle A—Income Taxes

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CHAPTER 1—NORMAL TAXES AND SURTAXES

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Subchapter A—Determination of Tax Liability

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PART IV—CREDITS AGAINST TAX

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Subpart A—Credits Allowable

Sec. 31. Tax withheld on wages, interest, dividends, and patronage dividends.
Sec. 32. Tax withheld at source on nonresident aliens and foreign corporations and on tax-free covenant bonds.
Sec. 33. Taxes of foreign countries and posssessions of the United States; possession tax credit.
Sec. 37. Credit for the elderly.
Sec. 38. Investment in certain depreciable property.
Sec. 39. Certain uses of gasoline [, special fuels, and lubricating oil] *and special fuels*.
Sec. 40. Expenses of work incentive programs.
Sec. 41. Contributions to candidates for public office.
Sec. 42. General tax credit.
Sec. 43. Earned income.
Sec. 44. Purchase of new principal residence.
Sec. 44A. Expenses for household and dependent care services necessary for gainful employment.
Sec. 44B. Credit for employment of certain new employees.
Sec. 44C. Residential energy credit.
Sec. 44D. Credit for producing fuel from a nonconventional source.
Sec. 44E. Alcohol used as fuel.
Sec. 44F. Credit for increasing research activities.

Sec. 44G. Employee stock ownership credit.
Sec. 45. Overpayments of tax.

* * * * * * *

SEC. 39. CERTAIN USES OF GASOLINE [, SPECIAL FUELS, AND LUBRICATING OIL] *AND SPECIAL FUELS*.

(a) GENERAL RULE.—There shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the sum of the amounts payable to the taxpayer—

(1) under section 6420 with respect to gasoline used during the taxable year on a farm for farming purposes (determined without regard to section 6420(g)),

(2) under section 6421 with respect to gasoline used during the taxable year (A) otherwise than as a fuel in a highway vehicle or (B) in vehicles while engaged in furnishing certain public passenger land transportation service (determined without regard to section 6421(i)), *and*

[(3) under section 6424 with respect to lubricating oil used during the taxable year for certain nontaxable purposes (determined without regard to section 6427(f)), and]

[(4)] *(3)* under section 6427 with respect to fuels used for nontaxable purposes or resold during the taxable year (determined without regard to section 6427(i)).

(b) EXCEPTION.—Credit shall not be allowed under subsection (a) for any amount payable under section [6421, 6424, or 6427] *6421 or 6427,* if a claim for such amount is timely filed and, under section [6421(i), 6424(f), or 6427(i)] *6421(i) or 6427(i)* is payable under such section.

* * * * * * *

SEC. 44E. ALCOHOL USED AS FUEL.

(a) GENERAL RULE.—* * *

* * * * * * *

(c) COORDINATION WITH EXEMPTION FROM EXCISE TAX.—The amount of the credit allowable under this section with respect to any alcohol shall, under regulations prescribed by the Secretary, be properly reduced to take into account any benefit provided with respect to such alcohol solely by reason of the application of [section 4041(k) or 4081(c)] *subsection (b)(2) or (k) of section 4041 or section 4081(c).*

(f) TERMINATION.—

(1) IN GENERAL.—This section shall not apply to any sale or use after [December 31, 1992] *September 30, 1988.*

(2) NO CARRYOVERS TO YEARS AFTER 1994.—No amount may be carried under subsection (e)(2) to any taxable year beginning after December 31, 1994.

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Subchapter N—Tax Based on Income From Sources Within or Without the United States

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PART II—NONRESIDENT ALIENS AND FOREIGN CORPORATIONS

*   *   *   *   *   *   *

Subpart A—Nonresident Alien Individuals

*   *   *   *   *   *   *

SEC. 874. ALLOWANCE OF DEDUCTIONS AND CREDITS.

(a) RETURN PREREQUISITE TO ALLOWANCE.—A nonresident alien individual shall receive the benefit of the deductions and credits allowed to him in this subtitle only by filing or causing to be filed with the Secretary a true and accurate return, in the manner prescribed in subtitle F (sec. 6001 and following, relating to procedure and administration), including therein all the information which the Secretary may deem necessary for the calculation of such deductions and credits. This subsection shall not be construed to deny the credits provided by sections 31 and 32 for tax withheld at source or the credit provided by section 39 for certain uses of gasoline[, special fuels, and lubricating oil] *and special fuels.*

*   *   *   *   *   *   *

Subpart B—Foreign Corporations

*   *   *   *   *   *   *

SEC. 882. TAX ON INCOME OF FOREIGN CORPORATIONS CONNECTED WITH UNITED STATES BUSINESS.

(a) IMPOSITION OF TAX.—

*   *   *   *   *   *   *

(c) ALLOWANCE OF DEDUCTIONS AND CREDITS.—

(1) ALLOCATION OF DEDUCTIONS.—

*   *   *   *   *   *   *

(2) DEDUCTIONS AND CREDITS ALLOWED ONLY IF RETURN FILED.—A foreign corporation shall receive the benefit of the deductions and credits allowed to it in this subtitle only by filing or causing to be filed with the Secretary a true and accurate return, in the manner prescribed in subtitle F, including therein all the information which the Secretary may deem necessary for the calculation of such deductions and credits. The preceding sentence shall not apply for purposes of the tax imposed by section 541 (relating to personal holding company tax), and shall not be construed to deny the credit provided by section 32 for tax withheld at source or the credit provided by section 39 for certain uses of gasoline [and lubricating oil].

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Subtitle D—Miscellaneous Excise Taxes

[CHAPTER 31. Special fuels.]
CHAPTER 31. Retail excise taxes.
CHAPTER 32. Manufacturers excise taxes.
CHAPTER 33. Facilities and services.

CHAPTER 34. Policies issued by foreign insurers.
CHAPTER 35. Taxes on wagering.
CHAPTER 36. *Certain other excise taxes.*
CHAPTER 37. Sugar.
CHAPTER 39. Registration-required obligations.
CHAPTER 40. General provisions relating to occupational taxes.
CHAPTER 41. Public charities.
CHAPTER 42. Private foundations, black lung benefit trusts.
CHAPTER 43. Qualified pension, etc., plans.
CHAPTER 44. Real estate investment trusts.
CHAPTER 45. Windfall profit tax on domestic crude oil.

CHAPTER 31—SPECIAL FUELS

CHAPTER 31—RETAIL EXCISE TAXES

SUBCHAPTER A. Special fuels.
SUBCHAPTER B. Heavy trucks and trailers.

Subchapter A—Special Fuels

Sec. 4041. Imposition of tax.
Sec. 4042. Tax on fuel used in commercial transportation on inland waterways.

SEC. 4041. IMPOSITION OF TAX.

[(a) DIESEL FUEL.—There is hereby imposed a tax of 4 cents a gallon upon any liquid (other than any product taxable under section 4081)—

[(1) sold by any person to an owner, lessee, or other operator of a diesel-powered highway vehicle, for use as a fuel in such vehicle; or

[(2) used by any person as a fuel in a diesel-powered highway vehicle unless there was a taxable sale of such liquid under paragraph (1).

In the case of a liquid taxable under this subsection sold for use or used as a fuel in a diesel-powered highway vehicle (A) which (at the time of such sale or use) is not registered, and is not required to be registered, for highway use under the laws of any State or foreign country, or (B) which, in the case of a diesel-powered highway vehicle owned by the United States, is not used on the highway, the tax imposed by paragraph (1) or by paragraph (2) shall be 2 cents a gallon. If a liquid on which tax was imposed by paragraph (1) at the rate of 2 cents a gallon by reason of the preceding sentence is used as a fuel in a diesel-powered highway vehicle (A) which (at the time of such use) is registered, or is required to be registered, for highway use under the laws of any State or foreign country, or (B) which, in the case of a diesel-powered highway vehicle owned by the United States, is used on the highway, a tax of 2 cents a gallon shall be imposed under paragraph (2).

[(b) SPECIAL MOTOR FUELS.—There is hereby imposed a tax of 4 cents a gallon upon benzol, benezene, naphtha, liquefied petroleum gas, casing head and natural gasoline, or any other liquid (other than kerosene, gas oil, or fuel oil, or any product taxable under section 4081 or subsection (a) of this section)—

[(1) sold by any person to an owner, lessee, or other operator of a motor vehicle or motorboat for use as a fuel in such motor vehicle or motorboat; or

[(2) Used by any person as a fuel in a motor vehicle or motorboat unless there was a taxable sale of such liquid under paragraph (1).

In the case of a liquid taxable under this subsection sold for use, or used, in a qualified business use, the tax imposed by paragraph (1) or by paragraph (2) shall be 2 cents a gallon. If a liquid on which tax was imposed by paragraph (1) at the rate of 2 cents a gallon by reason of the preceding sentence is used otherwise than in a qualified business use, a tax of 2 cents a gallon shall be imposed under paragraph (2). For purposes of this subsection, the term "qualified business use" has the meaning given to such term by section 6421(d)(2).]

(a) Diesel Fuel and Special Motor Fuels.—

(1) Diesel fuel.—There is hereby imposed a tax of 9 cents a gallon on any liquid (other than any product taxable under section 4081)—

(A) sold by any person to an owner, lessee, or other operator of a diesel-powered highway vehicle for use as a fuel in such vehicle, or

(B) used by any person as a fuel in a diesel-powered highway vehicle unless there was a taxable sale of such liquid under subparagraph (A).

(2) Special motor fuels.—There is hereby imposed a tax of 9 cents a gallon on benzol, benzene, naphtha, liquefied petroleum gas, casing head and natural gasoline, or any other liquid (other than kerosene, gas oil, or fuel oil, or any product taxable under section 4081 or paragraph (1) of this subsection)—

(A) sold by any person to an owner, lessee, or other operator of a motor vehicle or motorboat for use as a fuel in such motor vehicle or motorboat, or

(B) used by any person as a fuel in a motor vehicle or motorboat unless there was a taxable sale of such liquid under subparagraph (A).

(3) Termination.—On and after October 1, 1988, the taxes imposed by this subsection shall not apply.

(b) Exemption for Off-Highway Business Use; Exemption for Qualified Methanol and Ethanol Fuel.—

(1) Exemption for off-highway business use.—

(A) In general.—No tax shall be imposed by subsection (a) on liquids sold for use or used in an off-highway business use.

(B) Tax where other use.—If a liquid on which no tax was imposed by reason of subparagraph (A) is used otherwise than in an off-highway business use, a tax shall be imposed by paragraph (1)(B) or (2)(B) of subsection (a) (whichever is appropriate).

(C) Off-highway business use defined.—For purposes of this subsection, the term "off-highway business use" has the meaning given to such term by section 6421(d)(2).

(2) Qualified methanol and ethanol fuel.—

(A) In general.—No tax shall be imposed by subsection (a) on any qualified methanol or ethanol fuel.

(B) Qualified methanol or ethanol fuel.—The term "qualified methanol or ethanol fuel" means any liquid at least 85 percent of which consists of methanol, ethanol, or other alcohol produced from a substance other than petroleum.

(C) Termination.—On and after October 1, 1988, subparagraph (A) shall not apply.

(c) Noncommercial Aviation.—

(1) In general.—There is hereby imposed a tax of 14 cents a gallon upon any liquid (other than any product taxable under section 4081)—

(A) sold by any person to an owner, lessee, or other operator of an aircraft, for use as a fuel in such aircraft in noncommercial aviation; or

(B) used by any person as a fuel in an aircraft in noncommercial aviation, unless there was a taxable sale of such liquid under this section.

(2) Gasoline.—There is hereby imposed a tax (at the rate specified in paragraph (3)) upon any product taxable under section 4081—

(A) sold by any person to an owner, lessee, or other operator of an aircraft, for use as a fuel in such aircraft in noncommercial aviation; or

(B) used by any person as a fuel in an aircraft in noncommercial aviation, unless there was a taxable sale of such product under subparagraph (A).

The tax imposed by this paragraph shall be in addition to any tax imposed under section 4081.

[(3) Rate of tax.—The rate of tax imposed by paragraph (2) is 8 cents a gallon (10½ cents a gallon in the case of any gasoline with respect to which a tax is imposed under section 4081 at the rate set forth in subsection (b) thereof).]

(3) Rate of tax.—The rate of tax imposed by paragraph (2) on any gasoline is the excess of 21 cents a gallon over the rate at which tax was imposed on such gasoline under section 4081.

* * * * * * *

(4) Definition of noncommercial aviation.—For purposes of this chapter, the term "noncommercial aviation" means any use of an aircraft, other than use in a business of transporting persons or property for compensation or hire by air. The term also includes any use of an aircraft, in a business described in the preceding sentence, which is properly allocable to any transportation exempt from the taxes imposed by sections 4261 and 4271 by reason of section 4281 or 4282.

(5) Termination.—The taxes imposed by paragraphs (1) and (2) shall apply during the period beginning on September 1, 1982, and ending on December 31, 1987.

[(e) Rate Reduction.—On and after October 1, 1984—

[(1) the taxes imposed by subsections (a) and (b) shall be 1½ cents a gallon, and

[(2) the second and third sentences of subsections (a) and (b) shall not apply.]

(f) Exemption for Farm Use.—

(1) Exemption.—Under regulations prescribed by the Secretary, no tax shall be imposed under this section on any liquid sold for use or used on a farm for farming purposes.

(2) Use on a farm for farming purposes.—For purposes of paragraph (1) of this subsection, use on a farm for farming purposes shall be determined in accordance with paragrpahs (1), (2), and (3) of section 6420(c).

(3) Termination.—On and after October 1, 1988, paragraph (1) shall not apply.

(g) Other Exemptions.—Under regulations prescribed by the Secretary, no tax shall be imposed under this section—

(1) on any liquid sold for use or used as supplies for vessels or aircraft (within the meaning of section 4221(d)(3));

(2) with respect to the sale of any liquid for the exclusive use of any State, any political subdivision of a State, or the District of Columbia, or with respect to the use by any of the foregoing of any liquid as a fuel;

(3) upon the sale of any liquid for export, or for shipment to a possession of the United States, and in due course so exported or shipped; and

(4) with respect to the sale of any liquid to a nonprofit educational organization for its exclusive use, or with respect to the use by a nonprofit educational organization of any liquid as a fuel.

For purposes of paragraph (4), the term "nonprofit educational organization" means an educational organization described in section 170(b)(1)(A)(ii) which is exempt from income tax under section 501(a). The term also includes a school operated as an activity of an organization described in section 501(c)(3) which is exempt from income tax under section 501(a), if such school normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on. *Paragraphs (2) and (4) shall not apply on and after October 1, 1988.*

* * * * * * *

[(k) Fuels Containing Alcohol.—

[(1) In general.—Under regulations prescribed by the Secretary, no tax shall be imposed by this section on the sale or use of any liquid fuel at least 10 percent of which consists of alcohol (as defined by section 4081(c)(3)).

[(2) Later separation.—If any person separates the liquid fuel from a mixture of the liquid fuel and alcohol on which tax was not imposed by reason of this subsection, such separation shall be treated as a sale of the liquid fuel.

[(3) Termination.—Paragraph (1) shall not apply to any sale or use after December 31, 1992.]

(k) Fuels Containing Alcohol.—

(1) In general.—Under regulations prescribed by the Secretary, in the case of the sale or use of any liquid fuel at least 10

percent of which consists of alcohol (as defined in section 4081(c)(3))—

(A) subsection (a) shall be applied by substituting "5 cents" for "9 cents" each place it appears, and

(B) no tax shall be imposed by subsection (c).

(2) Later separation.—If any person separates the liquid fuel from a mixture of the liquid fuel and alcohol to which paragraph (1) applied, such separation shall be treated as a sale of the liquid fuel. Any tax imposed on such sale shall be reduced by the amount (if any) of the tax imposed on the sale of such mixture.

(3) Termination.—Paragraph (1) shall not apply to any sale or use after September 30, 1988.

* * * * * * *

Subchapter B—Heavy Trucks and Trailers

Sec. 4051. Imposition of tax on heavy trucks and trailers sold at retail.
Sec. 4052. Definitions and special rules.
Sec. 4053. Exemptions.

SEC. 4051. IMPOSITION OF TAX ON HEAVY TRUCKS AND TRAILERS SOLD AT RETAIL.

(a) Imposition of Tax.—

(1) In general.—There is hereby imposed on the first retail sale of the following articles (including in each case parts or accessories sold on or in connection therewith or with the sale thereof) a tax of 12 percent of the amount for which the article is so sold:

(A) Automobile truck chassis.

(B) Automobile truck bodies.

(C) Truck trailer and semitrailer chassis.

(D) Truck trailer and semitrailer bodies.

(E) Tractors of the kind chiefly used for highway transportation in combination with a trailer or semitrailer.

(2) Exclusion for trucks weighing 33,000 pounds or less.—The tax imposed by paragraph (1) shall not apply to automobile truck chassis and automobile truck bodies, suitable for use with a vehicle which has a gross vehicle weight of 33,000 pounds or less (as determined under regulations prescribed by the Secretary).

(3) Exclusion for trailers weighing 26,000 pounds or less.—The tax imposed by paragraph (1) shall not apply to truck trailer and semitrailer chassis and bodies, suitable for use with a trailer or semitrailer which has a gross vehicle weight of 26,000 pounds or less (as determined under regulations prescribed by the Secretary).

(4) Sale of trucks, etc., treated as sale of chassis and body.—For purposes of this subsection, a sale of an automobile truck or truck trailor or semitrailer shall be considered to be a sale of a chassis and of a body described in paragraph (1).

(b) Separate Purchase of Truck or Trailer and Parts and Accessories Therefor.—Under regulations prescribed by the Secretary.

(1) IN GENERAL.—If the owner, lessee, or operator of a vehicle taxable under subsection (A) installs, not later than the date 6 months after the date he placed such vehicle in service, any part or accessories on such vehicle, there is hereby imposed on such installation a tax equal to 12 percent of the price of such part or accessory and its installation.

(2) EXCEPTIONS.—Paragraph (1) shall not apply if—

(A) the vehicle taxable under subsection (a) is a vehicle which is fully equipped for service,

(B) the part or accessory installed is a replacement, or

(C) the aggregate price of the parts and accessories (and their installation) described in paragraph (1) does not exceed $200 (or such other amount or amounts as the Secretary may by regulations prescribe).

(c) TERMINATION.—On and after October 1, 1988, the taxes imposed by this section shall not apply.

(d) TRANSITIONAL RULE.—In the case of any article taxable under subsection (a) on which tax was paid under section 4061(a), subsection (a) shall be applied by substituting "2 percent" for "12 percent".

SEC. 4052. DEFINITIONS AND SPECIAL RULES.

(a) FIRST RETAIL SALE.—For purposes of this subchapter—

(1) IN GENERAL.—The term "first retail sale" means the first sale, for a purpose other than for resale, after manufacture, production, or importation.

(2) LEASES CONSIDERED AS SALES.—Rules similar to the rules of section 4217 shall apply.

(3) USE TREATED AS SALE.—

(A) IN GENERAL.—If any person uses an article taxable under section 4051 before the first retail sale of such article, then such person shall be liable for tax under section 4051 in the same manner as if such article were sold at retail by him.

(B) EXEMPTION FOR USE IN FURTHER MANUFACTURE.—Subparagraph (A) shall not apply to use of an article as material in the manufacture or production of, or as a component part of, another article taxable under section 4051 to be manufactured or produced by him.

(C) COMPUTATION OF TAX.—In the case of any person made liable for tax by subparagraph (A), the tax shall be computed on the price at which similar articles are sold at retail in the ordinary course of trade, as determined by the Secretary.

(b) DETERMINATION OF PRICE.—

(1) IN GENERAL.—In determining price for purposes of this subchapter.—

(A) there shall be included any charge incident to placing the article in condition ready for use,

(B) there shall be excluded—

(i) the amount of the tax imposed by this subchapter,

(ii) if stated as a separate charge, the amount of any retail sales tax imposed by any State or political subdivision thereof or the District of Columbia, whether the

liability for such tax is imposed on the vendor or vendee, and

(iii) the fair market value (including any tax imposed by section 4071) at retail of any tires (not including any metal rim or rim base), and

(C) the price shall be determined without regard to any trade-in.

(2) SALES NOT AT ARM'S LENGTH.—In the case of any article sold (otherwise than through an arm's-length transaction) at less than the fair market price, the tax under this subchapter shall be computed on the price for which similar articles are sold at retail in the ordinary course of trade, as determined by the Secretary.

(c) CERTAIN COMBINATIONS NOT TREATED AS FURTHER MANUFACTURE.—For purposes of this subchapter (other than subsection (a) (3) (B)), a person shall not be treated as engaged in the manufacture of any article merely by reason of combining such article with an item described in section 4063(d).

(d) CERTAIN OTHER RULES MADE APPLICABLE.—Under regulations prescribed by the Secretary, rules similar to the rules of—

(1) subsections (c) and (d) of section 4216 (relating to partial payments), and

(2) section 4222 (relating to registration),

shall apply for purposes of this subchapter.

SEC. 4053. EXEMPTIONS.

(a) EXEMPTION OF SPECIFIED ARTICLES.—No tax shall be imposed under section 4051 on any article specified in subsection (a) of section 4063.

(b) CERTAIN EXEMPTIONS MADE APPLICABLE.—The exemptions provided by section 4221 (a) are hereby extended to the tax imposed by section 4051.

CHAPTER 32—MANUFACTURERS EXCISE TAXES

SUBCHAPTER A. Automotive and related items.
SUBCHAPTER B. Coal.
SUBCHAPTER D. Recreational equipment.
SUBCHAPTER F. Special provisions applicable to manufacturers tax.
SUBCHAPTER G. Exemptions, registration, etc.

Subchapter A—Automotive and Related Items

Part I. Motor vehicles.
Part II. Tires [and tubes].
Part III. Petroleum products.

PART I—MOTOR VEHICLES

Sec. 4061. Imposition of tax.
Sec. 4062. Articles classified as parts.
Sec. 4063. Exemptions.
Sec. 4064. Gas guzzler tax.

SEC. 4061. IMPOSITION OF TAX.

(a) TRUCKS, BUSES, TRACTORS, ETC.—

(1) TAX IMPOSED.—* * *

* * * * * * *

[(2) EXCLUSION FOR LIGHT-DUTY TRUCKS, ETC.—The tax imposed by paragraph (1) shall not apply to a sale by the manufacturer, producer, or importer of the following articles suitable for use with a vehicle having a gross vehicle weight of 10,000 pounds or less (as determined under regulations prescribed by the Secretary)—

[Automobile truck chassis.
[Automobile truck bodies.
[Automobile bus chassis.
[Automobile bus bodies.

[Truck trailer and semitrailer chassis and bodies, suitable for use with a trailer or semitrailer having a gross vehicle weight of 10,000 pounds or less (as so determined).]

(2) EXCLUSION FOR TRUCKS WITH GROSS VEHICLE WEIGHT OF 33,000 POUNDS OR LESS, AND CERTAIN TRAILERS.—

(A) The tax imposed by paragraph (1) shall not apply to automobile truck chassis and automobile truck bodies, suitable for use with a vehicle which has a gross vehicle weight of 33,000 pounds or less (as determined under regulations prescribed by the Secretary).

(B) The tax imposed by paragraph (1) shall not apply to truck trailer and semitrailer chassis and bodies, suitable for use with a trailer or semitrailer which has a gross vehicle weight of 26,000 pounds or less (as determined under regulations prescribed by the Secretary).

* * * * * * *

(c) TERMINATION.—

(1) TAX ON PARTS AND ACCESSORIES.—On and after the day after the date of the enactment of this subsection, the tax imposed by subsection (b) shall not apply.

(2) TAX ON TRUCKS.—On and after April 1, 1983, the tax imposed by subsection (a) shall not apply.

* * * * * * *

SEC. 4063. EXEMPTIONS.

(a) SPECIFIED ARTICLES.—

(1) CAMPER COACHES BODIES FOR SELF-PROPELLED MOBILE HOMES.—The tax imposed under section 4061 shall not apply in the case of articles designed (A) to be mounted or placed on automobile trucks, automobile truck chassis, or automobile chassis, and (B) to be used primarily as living quarters or camping accommodations.

(2) FEED, SEED, AND FERTILIZER EQUIPMENT.—The tax imposed under section 4061 shall not apply in the case of any body, part or accessory primarily designed—

(A) to process or prepare seed, feed, or fertilizer for use on farms;

(B) to haul feed, seed, or fertilizer to and on farms;

(C) to spread feed, seed, or fertilizer on farms;

(D) to load or unload feed, seed, or fertilizer on farms; or

(E) for any combination of the foregoing.

(3) House trailers.—The tax imposed under section 4061(a) shall not apply in the case of house trailers.

(4) Ambulances, hearses, etc.—The tax imposed by section 4061(a) shall not apply in the case of an ambulance, hearse, or combinations ambulance-hearse.

(5) Concrete mixers.—The tax imposed under section 4061 shall not apply in the case of—

(A) any article designed (i) to be placed or mounted on an automobile truck chassis or truck trailer or semitrailer chassis and (ii) to be used to process or prepare concrete and

(B) parts or accessories designed primarily for use on or in connection with an article described in subparagraph (A).

(6) Buses.—The tax imposed under section 4061(a) shall not apply in the case of any automobile bus chassis or automobile bus body.

(7) Trash containers, etc.—The tax imposed under section 4061(a) shall not apply in the case of any box, container, receptacle, bin, or other similar article which is to be used as a trash container and is not designed for the transportation of freight other than trash, and which is not designed to be permanently mounted on or permanently affixed to an automobile truck chassis or body, or in the case of parts or accessories designed primarily for use on, in connection with, or as a component part of any such article.

(8) Rail trailers and rail vans.—The tax imposed under section 4061 shall not apply in the case of—

(A) any chassis or body of a trailer or semitrailer which includes as an integral part one or more rail axles and is designed primarily for use on a railroad, and

(B) any parts or accessories designed primarily for use on or in connection with an article described in subparagraph (A).

For purposes of this paragraph, a piggy-back trailer or semitrailer shall not be treated as designed primarily for use on a railroad.

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PART II—TIRES [AND TUBES]

Sec. 4071. Imposition of tax.
Sec. 4072. Definitions.
Sec. 4073. Exemptions.

SEC. 4071. IMPOSITION OF TAX.

[(a) Imposition and Rate of Tax.—There is hereby imposed upon the following articles, if wholly or in part of rubber, sold by the manufacturer, producer, or importer, a tax at the following rates:

[(1) Tires of the type used on highway vehicles, 9.75 cents a pound.

[(2) Other tires (other than laminated tires to which paragraph (5) applies), 4.875 cents a pound.

[(3) Inner tubes for tires, 10 cents a pound.

[(4) Tread rubber, 5 cents a pound.

[(5) Laminated tires (not of the type used on highway vehicles) which consist wholly of scrap rubber from used tire casings with an internal metal fastening agent, 1 cent a pound.]

(a) IMPOSITION AND RATE OF TAX.—There is hereby imposed on the following articles, if wholly or in part made of rubber, sold by the manufacturer, producer, or importer a tax at the following rates:

(1) Any tire of the type used on highway vehicles which weighs more than 100 pounds, 25 cents a pound.

(2) Tread rubber, 25 cents a pound.

(b) SPECIAL RULE FOR MANUFACTURERS WHO SELL AT RETAIL.—Under regulations prescribed by the Secretary, if the manufacturer, producer, or importer of any tire [or inner tube] delivers such tire [or tube] to a retail store or retail outlet of such manufacturer, producer, or importer, he shall be liable for tax under subsection (a) in respect of such tire [or tube] in the same manner as if it had been sold at the time it was delivered to such retail store or outlet. This subsection shall not apply to an article in respect to which tax has been imposed by subsection (a). Subsection (a) shall not apply to an article in respect of which tax has been imposed by this subsection.

* * * * * * *

[(d) RATE REDUCTION.—On and after October 1, 1984—

[(1) the tax imposed by paragraph (1) of subsection (a) shall be 4.875 cents a pound;

[(2) the tax imposed by paragraph (3) of subsection (a) shall be 9 cents a pound; and

[(3) paragraph (4) of subsection (a) shall not apply.]

(d) TERMINATION.—On and after October 1, 1988, the taxes imposed by subsection (a) shall not apply.

(e) TIRES ON IMPORTED ARTICLES.—For the purposes of subsection (a), if an article imported into the United States is equipped with tires [or inner tubes (other than bicycle tires and inner tubes]—

(1) the importer of the article shall be treated as the importer of the tires [and inner tubes] with which such article is equipped, and

(2) the sale of the article by the importer thereof shall be treated as the sale of the tires [and inner tubes] with which such article is equipped.

This subsection shall not apply with respect to the sale of an article if a tax on such sale is imposed under section 4061 or if such article is an automobile bus chassis or an automobile bus body.

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SEC. 4073. EXEMPTIONS.

(a) TIRES OF CERTAIN SIZES. * * *

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[(c) EXEMPTION FROM TAX ON TREAD RUBBER IN CERTAIN CASES.—Under regulations prescribed by the Secretary, the tax imposed by section 4071(a)(4) shall not apply to tread rubber sold by the manufacturer, producer, or importer, to any person for use by such person otherwise than in the recapping or retreading of tires of the type used on highway vehicles.]

(c) Exemption From Tax on Tread Rubber in Certain Cases.—Under regulations prescribed by the Secretary, the tax imposed by section 4071(a)(2) shall not apply to tread rubber used by the manufacturer, producer, or importer (or sold by the manufacturer, producer, or importer for use) otherwise than in the recapping or retreading of any tire which (after recapping or retreading)—

(1) is of the type used on highway vehicles, and

(2) weighs more than 100 pounds.

PART III—PETROLEUM PRODUCTS

Subpart A. Gasoline.
[Subpart B. Lubricating oil.]
Subpart C. Special provisions applicable to petroleum products.

* * * * * * *

Subpart A—Gasoline

Sec. 4081. Imposition of tax.
Sec. 4082. Definitions.
Sec. 4083. Exemption of sales to producer.
Sec. 4084. Cross references.

SEC. 4081. IMPOSITION OF TAX.

(a) In General.—There is hereby imposed on gasoline sold by the producer or importer thereof, or by any producer of gasoline, a tax of [4] *9* cents a gallon.

[(b) Rate Reduction.—On and after October 1, 1984, the tax imposed by this section shall be 1½ cents a gallon.]

(b) Termination.—On and after October 1, 1988, the taxes imposed by this section shall not apply.

(c) Gasoline Mixed With Alcohol.—

(1) In general.—Under regulations prescribed by the Secretary, [no tax shall be imposed by this section on] *subsection (a) shall be applied by substituting "5 cents" for "9 cents" in the case of* the sale of any gasoline—

(A) in a mixture with alcohol, if at least 10 percent of the mixture is alcohol, or

(B) for use in producing a mixture at least 10 percent of which is alcohol.

(2) Later separation of gasoline—If any person separates the gasoline from a mixture of gasoline and alcohol on which [tax was not imposed] *tax was imposed under subsection (a) at the rate of 5 cents a gallon* by reason of this subsection (or with respect to which a credit or payment was allowed or made by reason of section 6427(f)(1)), such person shall be treated as the producer of such gasoline. *The amount of tax imposed on any sale of such gasoline by such person shall be 4 cents a gallon.*

* * * * * * *

(4) Termination—Paragraph (1) shall not apply to any sale after [December 31, 1992.] *September 30, 1988.*

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[Subpart B—Lubricating Oil

[Sec. 4091. Imposition of tax.
[Sec. 4092. Definitions.
[Sec. 4093. Exemptions.
[Sec. 4094. Cross references.

[SEC. 4091. IMPOSITION OF TAX.

[There is hereby imposed on lubricating oil (other than cutting oils) which is sold in the United States by the Manufacturer or producer a tax of 6 cents a gallon, to be paid by the manufacturer or producer.

[SEC. 4092. DEFINITIONS.

[(a) Certain Vendees Considered as Manufacturers.—For purposes of this subpart, a vendee who has purchased lubricating oils free of tax under section 4093(a) shall be considered the manufacturer or producer of such lubricating oils.

[(b) Cutting Oils.—For purposes of this subpart, the term "cutting oils" means oils sold for the use in cutting and machining operation (including forging, drawing, rolling, shearing, punching, and stamping) on metals.

[SEC. 4093. EXEMPTIONS.

[(a) Sales to Manufacturers or Producers for Resale.—Under regulations prescribed by the Secretary, no tax shall be imposed by section 4091 on lubricating oils sold to a manufacturer or producer of lubricating oils for resale by him.

[(b) Use in Producing Rerefined Oil.—

[(1) Sales to rerefiners.—Under regulations prescribed by the Secretary, no tax shall be imposed by section 4091 on lubricating oil sold for use in mixing with used or waste lubricating oil which has been cleaned, renovated, or rerefined. Any person to whom lubricating oil is sold tax-free under this paragraph shall be treated as the producer of such lubricating oil.

[(2) Use in producing rerefined oil.—Under regulations prescribed by the Secretary, no tax shall be imposed by section 4091 on lubricating oil used in producing rerefined oil to the extent that the amount of such lubricating oil does not exceed 55 percent of such rerefined oil.

[(3) Rerefined oil defined.—For purposes of this subsection, the term "rerefined oil" means oil 25 percent or more of which is used or waste lubricating oil which has been cleaned, renovated, or rerefined.

[SEC. 4094. CROSS REFERENCE.

[For provisions to relieve purchasers of lubricating oil from excise tax in the case of lubricating oil used otherwise than in a highway motor vehicle, see sections 39 and 6424.]

Subpart C—Special Provisions Applicable to Petroleum Products

* * * * * * *

SEC. 4101. REGISTRATION.

Every person subject to tax under section 4081 [or section 4091] shall, before incurring any liability for tax under such section, register with the Secretary.

SEC. 4102. INSPECTION OF RECORDS BY LOCAL OFFICERS.

Under regulations prescribed by the Secretary, records required to be kept with respect to taxes under this part shall be open to inspection by such officers of a State, or a political subdivision of any such State, as shall be charged with the enforcement or collection of any tax on gasoline **[**or lubricating oils**]**.

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Subchapter F—Special Provisions Applicable to Manufacturers Tax

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SEC. 4218. USE BY MANUFACTURER OR IMPORTER CONSIDERED SALE.

(a) General Rule.—If any person manufactures, produces, or imports an article (other than an article specified in subsection **[**(b), (c), or (d))**]** *(b) or (c)* and uses it (otherwise than as material in the manufacture or production of, or as a component part of, another article taxable under this chapter to be manufactured or produced by him), then he shall be liable for tax under this chapter in the same manner as if such article were sold by him. This subsection shall not apply in the case of gasoline used by any person, for nonfuel purposes, as a material in the manufacture or production of another article to be manufactured or produced by him. For the purpose of applying the first sentence of this subsection to coal taxable under section 4121, the words "(otherwise than as material in the manufacture or production of, or as a component part of, another article taxable under this chapter to be manufactured or produced by him)" shall be disregarded.

(b) Tires **[**and tubes.—Except as provided in subsection (d), if**]**.*—If* any person manufactures, produces, or imports a tire **[**or inner tube**]** taxable under section 4071, and sells it on or in connection with the sale of any article, or uses it, then he shall be liable for tax under this chapter in the same manner as if such article were sold by him.

(c) Automotive Parts and Accessories.—If any person manufactures, Produces, or imports a part or accessory taxable under section 4061(b), and uses it (otherwise than as material in the manufacture or production of, or as a component part of, any other article to be manufactured or produced by him), then he shall be liable for tax under this chapter in the same manner as if such article were sold by him.

[(d) Bicycle Tires and Tubes.—If any person manufactures, produces, or imports a bicycle tire (as defined in section 4221(e)(4)(B)) or an inner tube for such a tire, and uses it (otherwise than as material in the manufacture or production of, or as a component part of, a bicycle, other than a rebuilt or reconditioned bicycle, to be manufactured or produced by him), then he shall be liable for tax under this chapter in the same manner as if such article were sold by him.**]**

[(e)**]***(d)* Computation of Tax.—Except as provided in section 4223(b), in any case in which a person is made liable for tax by the preceding provisions of this section, the tax (if based on the price for which the article is sold) shall be computed on the price at which such or similar articles are sold, in the ordinary course of trade, by manufacturers, producers, or importers, thereof, as determined by the Secretary.

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Subchapter G—Exemptions, Registration, Etc.

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SEC. 4221. CERTAIN TAX-FREE SALES.

(a) GENERAL RULE.—Under regulations prescribed by the Secretary, no tax shall be imposed under this chapter (other than under section 4121) on the sale by the manufacturer of an article—

(1) for use by the purchaser for further manufacture, or for resale by the purchaser to a second purchaser for use by such second purchaser in further manufacture,

(2) for export, or for resale by the purchaser to a second purchaser for export,

(3) for use by the purchaser as supplies for vessels or aircraft,

(4) to a State or local government for the exclusive use of a State or local government, or

(5) to a nonprofit educational organization for its exclusive use, but only if such exportation or use is to occur before any other use.

Paragraphs (4) and (5) shall not apply to the tax imposed by section 4064. *In the case of taxes imposed by section 4051, 4071, or 4081, paragraphs (4) and (5) shall not apply on and after October 1, 1988.*

* * * * * * *

(c) MANUFACTURER RELIEVED FROM LIABILITY IN CERTAIN CASES.—In the case of any article sold free of tax under this section (other than a sale to which subsection (b) applies), and in the case of any article sold free of tax under section 4063(a)(6) or (7), 4063(b), 4063(e), [4083, or 4093] *or 4083,* if the manufacturer in good faith accepts a certification by the purchaser that the article will be used in accordance with the applicable provisions of law, no tax shall thereafter be imposed under this chapter in respect of such sale by such manufacturer.

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(e) SPECIAL RULES.—

(1) RECIPROCITY REQUIRED IN CASE OF CIVIL AIRCRAFT.—In the case of articles sold for use as supplies for aircraft, the privileges granted under subsection (a)(3) in respect of civil aircraft employed in foreign trade or trade between the United States and any of its possessions, in respect of aircraft registered in a foreign country, shall be allowed only if the Secretary of the Treasury has been advised by the Secretary of Commerce that he has found that such foreign country allows, or will allow, substantially reciprocal privileges in respect of aircraft registered in the United States. If the Secretary of the Treasury is

advised by the Secretary of Commerce that he has found that a foreign country has discontinued or will discontinue the allowance of such privileges, the privileges granted under subsection (a)(3) shall not apply thereafter in respect of civil aircraft registered in that foreign country and employed in foreign trade or trade between the United States and any of its possessions.

(2) TIRES [AND TUBES].

(A) TAX-FREE SALES.—Under regulations prescribed by the Secretary, no tax shall be imposed under section 4071 on the sale by the manufacturer of a tire [or inner tube] if—

(i) such tire [or tube] is sold for use by the purchaser for sale on or in connection with the sale of another article manufactured or produced by such purchaser; and

(ii) such other article is to be sold by such purchaser in a sale which either will satisfy the requirements of paragraph (2), (3), (4), or (5) of subsection (a) for a tax-free sale, or would satisfy such requirements but for the fact that such other article is not subject to tax under this chapter.

(B) PROOF.—Where a tire [or tube] has been sold free of tax under this paragraph, this paragraph shall cease to apply unless, within the 6-month period which begins on the date of the sale by him (or, if earlier, on the date of the shipment by him), the manufacturer of such tire [or tube] receives proof that the other article referred to in clause (ii) of subparagraph (A) has been sold in a manner which satisfies the requirements of such clause (ii) (including in the case of a sale for export, proof of export of such other article).

(C) SUBSECTION (a)(1) DOES NOT APPLY.—Paragraph (1) of subsection (a) shall not apply with respect to the tax imposed under section 4071 on the sale of a tire [or inner tube].

[(4) BICYCLE TIRES OR TUBES SOLD TO BICYCLE MANUFACTURER.—

[(A) IN GENERAL.—Under regulations prescribed by the Secretary, no tax shall be imposed under section 4071 on the sale of a bicycle tire (or an inner tube for such a tire) by the manufacturer thereof if such tire or tube is sold for use by the purchaser as material in the manufacture or production of, or as a component part of, a bicycle (other than a rebuilt or reconditioned bicycle).

[(B) BICYCLE TIRE DEFINED.—As used in this paragraph the term "bicycle tire" means a tire, composed of rubber in combination with fabric or other reinforcing element, which is not more than 28 inches in outer diameter and not more than 2¼ inches in cross section and which is primarily designed or adapted for use on bicycles.

[(C) PROOF.—Where a bicycle tire or tube has been sold free of tax under this paragraph, this paragraph shall cease to apply unless, within the 6-month period which begins on the date of the sale by him (or, if earlier, on the date of shipment by him), the manufacturer of such bicycle tire or tube receives proof that the tire or tube has been used in the manner described in subparagraph (A).]

[(5)] *(3)* TIRES [TUBES,] AND TREAD RUBBER USED ON INTERCITY, LOCAL AND SCHOOL BUSES.—Under regulations prescribed by the Secretary—

[(A) the taxes imposed by paragraphs (2) and (3) of section 4071(a) shall not apply in the case of tires or inner tubes for tires sold for use by the purchaser on or in connection with a qualified bus, and]

(A) the tax imposed by paragraph (1) of section 4071(a) shall not apply in the case of tires sold for use by the purchaser on or in connection with a qualified bus, and

(B) the tax imposed by paragraph [(4)] *(2)* of section 4071(a) shall not apply in the case of tread rubber sold for use by the purchaser in the recapping or retreading of any tire to be used by the purchaser on or in connection with a qualified bus.

[(6)] *(4)* BUS PARTS AND ACCESSORIES.—Under regulations prescribed by the Secretary, the tax imposed by section 4061(b) shall not apply to any part or accessory which is sold for use by the purchaser on or in connection with an automoble bus, or is to be resold by the purchaser or a second purchaser for such use.

SEC. 4222. REGISTRATION.

(a) GENERAL RULE.—* * *

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(d) REGISTRATION IN THE CASE OF CERTAIN OTHER EXEMPTIONS.—The provisions of this section may be extended to, and made applicable with respect to the exemptions provided by sections 4063(a)(7), 4063(b), 4063(e), 4064(b)(1)(C), *4073(c),* 4083, [4093,] and 4182(b), and the exemptions authorized under section 4293 in respect of the taxes imposed by this chapter, to the extent provided by regulations prescribed by the Secretary.

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CHAPTER 36—CERTAIN OTHER EXCISE TAXES

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Subchapter D—Tax on Use of Certain Vehicles

Sec. 4481. Imposition of tax.
Sec. 4482. Definitions.
Sec. 4483. Exemptions.
Sec. 4484. Cross reference.

SEC. 4481. IMPOSITION OF TAX.

[(a) IMPOSITION OF TAX.—A tax is hereby imposed on the use of any highway motor vehicle which (together with the semitrailers and trailers customarily used in connection with highway motor vehicles of the same type as such highway motor vehicle) has a taxable gross weight of more than 26,000 pounds, at the rate of $3.00 a year for each 1,000 pounds of taxable gross weight or fraction thereof. In the case of the taxable period beginning on July 1, 1984, and ending on September 30, 1984, the tax shall be at the rate of 75 cents for such period for each 1,000 pounds of taxable gross weight or fraction thereof.]

(a) Imposition of Tax.—A tax is hereby imposed on the use of any highway motor vehicle which (together with the semitrailers and trailers customarily used in connection with highway motor vehicles of the same type as such highway motor vehicle) has a taxable gross weight of at least 33,000 pounds at the rate specified in the following table:

Taxable gross weight—		*Rate of tax—*
At least:	*But less than:*	
33,000 pounds	*55,000 pounds*	*$60 a year, plus $20 for each 1,000 pounds or fraction thereof in excess of 33,000 pounds.*
55,000 pounds	*80,000 pounds*	*$500 a year, plus $60 for each 1,000 pounds or fraction thereof in excess of 55,000 pounds.*
80,000 pounds		*$2,000 a year.*

* * * * * * *

(e) Period Tax in Effect.—The tax imposed by this section shall apply only to use before October 1, [1984] *1988.*

SEC. 4482. DEFINITIONS.

(a) Highway Motor Vehicle.—For purposes of this subchapter, the term "highway motor vehicle" means any motor vehicle which is a highway vehicle.

(b) Taxable Gross Weight.—For purposes of this subchapter, the term "taxable gross weight", when used with respect to any highway motor vehicle, means the sum of—

(1) the actual unloaded weight of—

(A) such highway motor vehicle fully equipped for service, and

(B) the semitrailers and trailers (fully equipped for service) customarily used in connection with highway motor vehicles of the same type as such highway motor vehicle, and

(2) the weight of the maximum load customarily carried on highway motor vehicles of the same type as such highway motor vehicle and on the semitrailers and trailers referred to in paragraph (1)(B).

Taxable gross weight shall be determined under regulations prescribed by the Secretary (which regulations may include formulas or other methods for determining the taxable gross weight of vehicles by classes, specifications, or otherwise).

(c) Other Definitions *and Special Rule.*—For purposes of this subchapter—

(1) State.—The term "State" means a State and the District of Columbia.

(2) YEAR.—The term "year" means the one-year period beginning on July 1.

(3) USE.—The term "use" means use in the United States on the public highways.

(4) TAXABLE PERIOD.—The term "taxable period" means any year beginning before July 1, [1984,] *1988,* and the period which begins on July 1, 1984, and ends at the close of September 30, [1984.] *1988.*

(5) CUSTOMARY USE.—A semitrailer or trailer shall be treated as customarily used in connection with a highway motor vehicle if such vehicle is equipped to tow such semitrailer or trailer.

(d) SPECIAL RULE FOR TAXABLE PERIOD IN WHICH TERMINATION DATE OCCURS.—In the case of the taxable period which ends on September 30, 1988, the amount of the tax imposed by section 4481 with respect to any highway motor vehicle shall be determined by reducing each dollar amount in the table contained in section 4481(a) by 75 percent.

SEC. 4483. EXEMPTIONS.

(a) STATE AND LOCAL GOVERNMENTAL EXEMPTION.—Under regulations prescribed by the Secretary, no tax shall be imposed by section 4481 on the use of any highway motor vehicle by any State or any political subdivision of a State.

(b) EXEMPTION FOR UNITED STATES.—The Secretary of the Treasury may authorize exemption from the tax imposed by section 4481 as to the use by the United States of any particular highway motor vehicle, or class of highway motor vehicles, if he determines that the imposition of such tax with respect to such use will cause substantial burden or expense which can be avoided by granting tax exemption and that full benefit of such exemption, if granted, will accrue to the United States.

(c) CERTAIN TRANSIT-TYPE BUSES.—Under regulations prescribed by the Secretary, no tax shall be imposed by section 4481 on the use of any bus which is of the transit type (rather than of the intercity type) by a person who, for the last 3 months of the preceding year (or for such other period as the Secretary may by regulations prescribe for purposes of this subsection), met the 60-percent passenger fare revenue test set forth in section 6421(b)(2) (as in effect on the day before the date of the enactment of the Energy Tax Act of 1978) as applied to the period prescribed for the purposes of this subsection.

(d) EXEMPTION FOR TRUCKS USED FOR LESS THAN 2,500 MILES ON PUBLIC HIGHWAYS.—

(1) SUSPENSION OF TAX.—

(A) IN GENERAL.—If—

(i) it is reasonable to expect that the use of any highway motor vehicle on public highways during any taxable period will be less than 2,500 miles, and

(ii) the owner of such vehicle furnishes such information as the Secretary may by forms or regulations require with respect to the expected use of such vehicle,

then the collection of the tax imposed by section 4481 with respect to the use of such vehicle shall be suspended during the taxable period.

(B) SUSPENSION CEASES TO APPLY WHERE USE EXCEEDS 2,500 MILES.—Subparagraph (A) shall cease to apply with respect to

any highway motor vehicle whenever the use of such vehicle on public highways during the taxable period exceeds 2,500 miles.

(2) EXEMPTION.—If—

(A) the collection of the tax imposed by section 4481 with respect to any highway motor vehicle is suspended under paragraph (1),

(B) such vehicle is not used during the taxable period on public highways for more than 2,500 miles, and

(C) except as otherwise provided in regulations, the owner of such vehicle furnishes such information as the Secretary may require with respect to the use of such vehicle during the taxable period,

then no tax shall be imposed by section 4481 on the use of such vehicle for the taxable period.

(3) REFUND WHERE TAX PAID AND VEHICLE NOT USED FOR MORE THAN 2,500 MILES.—If—

(A) the tax imposed by section 4481 is paid with respect to any highway motor vehicle for any taxable period, and

(B) the requirements of subparagraphs (B) and (C) of paragraph (2) are met with respect to such taxable period,

the amount of such tax shall be credited or refunded (without interest) to the person who paid such tax.

(4) RELIEF FROM LIABILITY FOR TAX UNDER CERTAIN CIRCUMSTANCES WHERE TRUCK IS TRANSFERRED.—Under regulations prescribed by the Secretary, the owner of a highway motor vehicle with respect to which the collection of the tax imposed by section 4481 is suspended under paragraph (1) shall not be liable for the tax imposed by section 4481 (and the new owner shall be liable for such tax) with respect to such vehicle if—

(A) such vehicle is transferred to a new owner,

(B) such suspension is in effect at the time of such transfer, and

(C) the old owner furnishes such information as the Secretary by forms and regulations requires with respect to the transfer of such vehicle.

(5) OWNER DEFINED.—For purposes of this subsection, the term "owner" means, with respect to any highway motor vehicle, the person described in section 4481(b).

(e) TERMINATION OF EXEMPTIONS.—Subsections (a) and (c) shall not apply on and after October 1, 1988.

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Subtitle F—Procedure and Administration

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CHAPTER 62—TIME AND PLACE FOR PAYING TAX

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Subchapter A—Place and Due Date for Payment of Tax

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SEC. 6156. INSTALLMENT PAYMENTS OF TAX ON USE OF HIGHWAY MOTOR VEHICLES.

(a) PRIVILEGE TO PAY TAX IN INSTALLMENTS.—If the taxpayer files a return of the tax imposed by section 4481 on or before the date prescribed for the filing of such return, he may elect to pay the tax shown on such return in equal installments in accordance with the following table:

If liability is incurred in—	*The number of installments shall be*
July, August, or September	4
October, November, or December	3
January, February, or March	2

(b) DATES FOR PAYING INSTALLMENTS.—In the case of any tax payable in installments by reason of an election under subsection (a)—

(1) the first installment shall be paid on the date prescribed for payment of the tax,

(2) the second installment shall be paid on or before the last day of the third month following the calendar quarter in which the liability was incurred,

(3) the third installment (if any) shall be paid on or before the last day of the sixth month following the calendar quarter in which the liability was incurred, and

(4) the fourth installment (if any) shall be paid on or before the last day of the ninth month following the calendar quarter in which the liability was incurred.

(c) PRORATION OF ADDITIONAL TAX TO INSTALLMENTS.—If an election has been made under subsection (a) in respect of tax reported on a return filed by the taxpayer and tax required to be shown but not shown on such return is assessed before the date prescribed for payment of the last installment, the additional tax shall be prorated equally to the installments for which the election was made. That part of the additional tax so prorated to any installment the date for payment of which has not arrived shall be collected at the same time as and as part of such installment. That part of the additional tax so prorated to any installment the date for payment of which has arrived shall be paid upon notice and demand from the Secretary.

(d) ACCELERATION OF PAYMENTS.—If the taxpayer does not pay any installment under this section on or before the date prescribed for its payment, the whole of the unpaid tax shall be paid upon notice and demand from the Secretary.

(e) SECTION INAPPLICABLE TO CERTAIN LIABILITIES.—This section shall not apply to any liability for tax incurred in—

(1) April, May, or June of any year, or

(2) July, August, or September of **[**1984**]** *1988.*

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CHAPTER 63—ASSESSMENT

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Subchapter A—In General

Sec. 6201. Assessment authority.
Sec. 6202. Establishment by regulations of mode or time of assessment.
Sec. 6203. Method of assessment.
Sec. 6204. Supplemental assessments.
Sec. 6205. Special rules applicable to certain employment taxes.
Sec. 6206. Special rules applicable to excessive claims under sections 6420, 6421, [6424,] and 6427.
Sec. 6207. Cross references.

SEC. 6201. ASSESSMENT AUTHORITY.

(a) Authority of Secretary.—The Secretary is authorized and required to make the inquiries, determinations, and assessments of all taxes (including interest, additional amounts, additions to the tax, and assessable penalties) imposed by this title, or accruing under any former internal revenue law, which have not been duly paid by stamp at the time and in the manner provided by law. Such authority shall extend to and include the following:

(1) Taxes shown on return.—The Secretary shall assess all taxes determined by the taxpayer or by the Secretary as to which returns or lists are made under this title.

(2) Unpaid taxes payable by stamp.—

(A) Omitted stamps.—Whenever any article upon which a tax is required to be paid by means of a stamp is sold or removed for sale or use by the manufacturer thereof or whenever any transaction or act upon which a tax is required to be paid by means of a stamp occurs without the use of the proper stamp, it shall be the duty of the Secretary, upon such information as he can obtain, to estimate the amount of tax which has been omitted to be paid and to make assessment therefor upon the person or persons the Secretary determines to be liable for such tax.

(B) Check or money order not duly paid.—In any case in which a check or money order received under authority of section 6311 as payment for stamps is not duly paid, the unpaid amount may be immediately assessed as if it were a tax imposed by this title, due at the time of such receipt, from the person who tendered such check or money order.

(3) Erroneous income tax prepayment credits.—If on any return or claim for refund of income taxes under subtitle A there is an overstatement of the credit for income tax withheld at the source, or of the amount paid as estimated income tax, the amount so overstated which is allowed against the tax shown on the return or which is allowed as a credit or refund may be assessed by the Secretary in the same manner as in the case of a mathematical or clerical error appearing upon the return, except that the provisions of section 6213(b)(2) (relating to abatement of mathematical or clerical error assessments) shall not apply with regard to any assessment under this paragraph.

(4) ERRONEOUS CREDIT UNDER SECTION 39 OR 43.—If on any return or claim for refund of income taxes under subtitle A there is an overstatement of the credit allowable by section 39 (relating to certain uses of gasoline [, special fuels, and lubricating oil] *(and special fuels)* or section 43 (relating to earned income), the amount so overstated whch is allowed against the tax shown on the return or which is allowed as a credit refund may be assessed by the Secretary in the same manner as in the case of a mathematical or clerical error appearing upon the return, except that the provisions of section 6213(b)(2) (relating to abatement of mathematical or clerical error assessments) shall not apply with regard to any assessment under this paragraph.

* * * * * * *

SEC. 6206. SPECIAL RULES APPLICABLE TO EXCESSIVE CLAIMS UNDER SECTIONS 6420, 6421, [6424,] AND 6427.

Any portion of a payment made under section 6420, 6421, [6424,] or 6427 which constitutes an excessive amount (as defined in section 6675(b)), and any civil penalty provided by section 6675, may be assessed and collected as if it were a tax imposed by section 4081 (with respect to payments under sections 6420 and 6421), [4091 (with respect to payments under section 6424),] or 4041 (with respect to payments under section 6427) and as if the person who made the claim were liable for such tax. The period for assessing any such portion, and for assessing any such penalty, shall be 3 years from the last day prescribed for the filing of the claim under section 6420, 6421, [6424,] or 6427 as the case may be.

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CHAPTER 65—ABATEMENTS, CREDITS, AND REFUNDS

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Subchapter B—Rules of Special Application

Sec. 6411. Tentative carryback and refund adjustments.
Sec. 6412. Floor stocks refunds.
Sec. 6413. Special rules applicable to certain taxes under subtitle C.
Sec. 6414. Income tax withheld.
Sec. 6415. Credits or refunds to persons who collected certain taxes.
Sec. 6416. Certain taxes on sales and services.
Sec. 6418. Sugar.
Sec. 6419. Excise tax on wagering.
Sec. 6420. Gasoline used on farms.
Sec. 6421. Gasoline used for certain nonhighway purposes or by local transit systems.
Sec. 6422. Cross references.
Sec. 6423. Conditions to allowance in the case of alcohol and tobacco taxes.
[Sec. 6424. Lubricating oil used for certain nontaxable purposes.]
Sec. 6425. Adjustment of overpayment of estimated income tax by corporation.
Sec. 6427. Fuels not used for taxable purposes.
Sec. 6428. 1981 rate reduction tax credit.

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SEC. 6412. FLOOR STOCKS REFUNDS.

(a) IN GENERAL.—

(1) TRUCKS, TIRES, [TUBES,] TREAD RUBBER, AND GASOLINE.—Where before October 1, [1984,] *1988,* any article subject to the tax imposed by section 4061(a)(1), [4071(a)(1), (3), or (4)] *4071(a)(1) or (2),* or 4081 has been sold by the manufacturer, producer, or importer and on such date is held by a dealer and has not been used and is intended for sale (or, in the case of tread rubber, is intended for sale or is held for use), there shall be credited or refunded (without interest) to the manufacturer, producer, or importer an amount equal to the difference between the tax paid by such manufacturer, producer, or importer on his sale of the article and the amount of tax made applicable to such article on and after October 1, [1984,] *1988,* if claim for such credit or refund is filed with the Secretary on or before March 31, [1985,] *1989,* based upon a request submitted to the manufacturer, producer, or importer before January 1, [1985,] *1989,* by the dealer who held the article in respect of which the credit or refund is claimed, and, on or before March 31, [1985,] *1989,* reimbursement has been made to such dealer by such manufacturer, producer, or importer for the tax reduction on such article or written consent has been obtained from such dealer to allowance of such credit or refund. No credit or refund shall be allowable under this paragraph with respect to gasoline in retail stocks held at the place where intended to be sold at retail, nor with respect to gasoline held for sale by a producer or importer of gasoline. [No credit or refund shall be allowable under this paragraph with respect to inner tubes for bicycle tires (as defined in section 4221(e)(4)(B)).]

(2) DEFINITIONS.—For purposes of this section—

(A) The term "dealer" includes a wholesaler, jobber, distributor, or retailer, or, in the case of tread rubber subject to tax under section [4071(a)(4),] *4071(a)(2),* includes any person (other than the manufacturer, producer, or importer thereof) who holds such tread rubber for sale or use.

(B) An article shall be considered as "held by a dealer" if title thereto has passed to such dealer (whether or not delivery to him has been made), and if for purposes of consumption title to such article or possession thereof has not at any time been transferred to any person other than a dealer.

* * * * * * *

SEC. 6416. CERTAIN TAXES ON SALES AND SERVICES.

(a) CONDITION TO ALLOWANCE.—

(1) GENERAL RULE.—No credit or refund of any overpayment of tax imposed by chapter 31 [(special fuels),] *(relating to retail excise taxes),* or chapter 32 (manufacturers taxes) shall be allowed or made unless the person who paid the tax establishes, under regulations prescribed by the Secretary, that he—

(A) has not included the tax in the price of the article with respect to which it was imposed and has not collected the amount of the tax from the person who purchased such article;

(B) has repaid the amount of the tax to the ultimate purchaser of the article;

(C) in the case of an overpayment under subsection (b)(2), (b)(3)(C) or (D), or (b)(4) of this section—

(i) has repaid or agreed to repay the amount of the tax to the ultimate vendor of the article, or

(ii) has obtained the written consent of such ultimate vendor to the allowance of the credit or the making of the refund; or

(D) has filed with the Secretary the written consent of the person referred to in subparagraph (B) to the allowance of the credit or the making of the refund.

(2) EXCEPTIONS.—This subsection shall not apply to—

(A) the tax imposed by section 4041 (relating to tax on special fuels) on the use of any liquid, and

(B) an overpayment of tax under paragraph (1), (3) (A) or (B), or (5) of subsection (b) of this section.

(3) SPECIAL RULES.—For purposes of this subsection—

(A) in any case in which the Secretary determines that an article is not taxable, the term "ultimate purchaser" (when used in paragraph (1)(B) of this subsection) includes a wholesaler, jobber, distributor, or retailer who, on the 15th day after the date of such determination, holds such article for sale; but only if claim for credit or refund by reason of this subparagraph is filed on or before the day for filing the return with respect to the taxes imposed under chapter 32 for the first period which begins more than 60 days after the date of such determination; and

(B) in applying paragraph (1)(C) to any overpayment under paragraph (2)(F), (3)(C), or (4) of subsection (b), the term "ultimate vendor" means the ultimate vendor of the other article.

(b) SPECIAL CASES IN WHICH TAX PAYMENTS CONSIDERED OVERPAYMENTS.—Under regulations prescribed by the Secretary, credit or refund (without interest) shall be allowed or made in respect of the overpayments determined under the following paragraphs:

(1) PRICE READJUSTMENTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B) or (C), if the price of any article in respect of which a tax, based on such price, is imposed by chapter 32, is readjusted by reason of the return or repossession of the article or a covering or container, or by a bona fide discount, rebate, or allowance, including a readjustment for local advertising (but only to the extent provided in section 4216(e)(2) and (3)), the part of the tax proportionate to the part of the price repaid or credited to the purchaser shall be deemed to be an overpayment.

(B) FURTHER MANUFACTURE.—Subparagraph (A) shall not apply in the case of an article in respect of which tax was computed under section 4223(b)(2); but if the price for which such article was sold is readjusted by reason of the return or repossession of the article, the part of the tax proportionate to the part of such price repaid or credited to the purchaser shall be deemed to be an overpayment.

(C) ADJUSTMENT OF TIRE PRICE.—No credit or refund of any tax imposed by section 4071(a)(1) or (2) or section 4071(b) shall be allowed or made by reason of an adjustment of a tire pursuant to a warranty or guarantee.

(2) SPECIFIED USES AND RESALES.—The tax paid under chapter 32 (or under [section 4041(a)(1) or (b)(1)] *paragraph (1)(A) or (2)(A) of section 4041(a) or under section 4051*) in respect of any article (other than coal taxable under section 4121) shall be deemed to be an overpayment if such article was, by any person—

(A) exported (except in any case to which subsection (g) applies);

(B) used or sold for use as supplies for vessels or aircraft;

(C) sold to a State or local government for the exclusive use of a State or local government;

(D) sold to a nonprofit educational organization for its exclusive use;

(E) in the case of a tire or inner tube, resold for use as provided in subparagraph (C) of paragraph (3) (or in the case of the tread rubber on a recapped or retreaded tire, resold for use as provided in subparagraph (D) of paragraph (3)), and the other article referred to in such subparagraph is by any person exported or sold as provided in such subparagraph;

(F) in the case of any article taxable under section 4061(b) (other than spark plugs and storage batteries), used or sold for use as repair or replacement parts or accessories for farm equipment (other than equipment taxable under section 4061(a));

(G) in the case of tread rubber in respect of which tax was paid under section [4071(a)(4)] *4071(a)(2)*—

[(i) used or sold for use otherwise than in the recapping or retreading of tires of the type used on highway vehicles (as defined in section 4072(c)),]

(i) used or sold for use otherwise than in the recapping or retreading of any tire which (after recapping or retreading)—

(I) is of the type used on highway vehicles (as defined in section 4072(c)), and

(ii) weighs more than 100 pounds,

(ii) destroyed, scrapped, wasted, or rendered useless in the recapping or retreading process,

(iii) used in the recapping or retreading of a tire the sale of which is later adjusted pursuant to a warranty or guarantee, in which case the overpayment shall be in proportion to the adjustment in the sales price of such tire, or

(iv) used in the recapping or retreading of a tire, if such tire is by any person exported, used or sold for use as supplies for vessels or aircraft, sold to a State or local government for the exclusive use of a State or local government, or sold to a nonprofit educational organization for its exclusive use,

unless credit or refund of such tax is allowable under paragraph (3);

(H) in the case of gasoline, used or sold for use in production of special fuels referred to in section 4041;

(I) in the case of any article taxable under section 4061(b), sold for use by the purchaser on or in connection with an automobile bus;

(J) in the case of a box, container, receptable, bin, or other similar article taxable under section 4061(a), sold to any person for use as described in section 4063(a)(7); or

(K) in the case of any article taxable under section 4061(b), sold on or in connection with the first retail sale of a light-duty truck, as described in section 4061(a)(2), if credit or refund of such tax is not available under any other provisions of law;

[(L) in the case of any tire or inner tube taxable under paragraph (1) or (3) of section 4071(a), sold to any person for use as described in section 4221(e)(5)(A);]

(L) in the case of any tire taxable under paragraph (1) of section 4071(a), sold to any person for use as described in section 4221(e)(3)(A); or

(M) in the case of tread rubber taxable under paragraph [(4)] *(2)* of section 4071(a), used in the recapping or retreading of a tire sold to any person for use on or in connection with a qualified bus (as defined in section 4221(d)(7)[; or].

[(N) in the case of lubricating oil taxable under section 4091 which is contained in a mixture which is rerefined oil (as defined in section 4093(b)(3)), used or sold.

[The amount of the credit or refund under subparagraph (N) with respect to any lubricating oil shall be the amount which would be exempt from tax under section 4093.] Subparagraphs (C) and (D) shall not apply in the case of any tax paid under section 4064.

(3) TAX-PAID ARTICLES USED FOR FURTHER MANUFACTURE, ETC.—If the tax imposed by chapter 32 has been paid with respect to the sale of any article (other than coal taxable under section 4121) by the manufacturer, producer, or importer thereof and such article is sold to a subsequent manufacturer or producer before being used, such tax shall be deemed to be an overpayment by such subsequent manufacturer or producer if—

(A) in the case of any article other than an article to which subparagraph (B), (C), (D), or (E) applies, such article is used by the subsequent manufacturer or producer as material in the manufacture or production of, or as a component part of—

(i) another article taxable under chapter 32, or

(ii) an automobile bus chassis or an automobile bus body,

manufactured or produced by him;

(B) in the case of a part or accessory taxable under section 4061(b), such article is used by the subsequent manufacturer or producer as material in the manufacture or production of, or as a component part of, any other article manufactured or produced by him;

(C) in the case of a tire [or inner tube] taxable under section 4071, such article is sold by the subsequent manufacturer or producer on or in connection with, or with the sale of, any other article manufactured or produced by him and such other article is—

(i) an automobile bus chassis or an automobile bus body, or

(ii) by any person exported, sold to a State or local government for the exclusive use of a State or local government, sold to a nonprofit educational organization for its exclusive use, or used or sold for use as supplies for vessels or aircraft;

(D) in the case of tread rubber in respect of which tax was paid under section [4071(a)(4)] *4071(a)(2)* used in the recapping or retreading of a tire, such tire is sold by the subsequent manufacturer or producer on or in connection with, or with the sale of, any other article manufactured or produced by him and such other article is by any person exported, sold to a State or local government for the exclusive use of a State or local government, sold to a nonprofit educational organization for its exclusive use, or used or sold for use as supplies for vessels or aircraft, unless credit or refund of such tax is allowable under subparagraph (C); *or*

[(E) in the case of—

[(i) a bicycle tire (as defined in section 4221(e)(4)(B)), or

[(ii) an inner tube for such a tire,

such article is used by the subsequent manufacturer or producer as material in the manufacture or production of, or as a component part of, a bicycle (other than a rebuilt or reconditioned bicycle); or]

[(F)] *(E)* in the case of gasoline taxable under section 4081, such gasoline is used by the subsequent manufacturer or producer, for nonfuel purposes, as a material in the manufacture or production of any other article manufactured or produced by him.

For purposes of subparagraphs (A) and (B), an article shall be treated as having been used as a component part of another article if, had it not been broken or rendered useless in the manufacture or production of such other article, it would have been so used.

(4) TIRES [, INNER TUBES].—If—

(A) a tire [*or inner tube*] taxable under section 4071, or a recapped or retreaded tire in respect of which tax under section [4071(a)(4)] *4071(a)(2)* was paid on the tread rubber used in the recapping or retreading, is sold by the manufacturer, producer, or importer thereof on or in connection with, or with the sale of, any other article manufactured or produced by him, and

(B) such other article is—

(i) an automobile bus chassis or an automobile bus body, or

(ii) by any person exported, sold to a State or local government for the exclusive use of a State or local government, sold to a nonprofit educational organization for its exclusive use, or used or sold for use as supplies for vessels or aircraft,

any tax imposed by chapter 32 in respect of such tire [or inner tube] which has been paid by the manufacturer, producer, or importer thereof shall be deemed to be an overpayment by him.

(5) Return of certain installment accounts.—If—

(A) tax was paid under section 4216(e)(1) in respect of any installment account,

(B) such account is, under the agreement under which the account was sold, returned to the person who sold such account, and

(C) the consideration is readjusted as provided in such agreement,

the part of the tax paid under section 4216(e)(1) allocable to the part of the consideration repaid or credited to the purchaser of such account shall be deemed to be an overpayment.

This subsection shall apply in respect of an article only if the exportation or use referred to in the applicable provision of this subsection occurs before any other use, or, in the case of a sale or resale, the use referred to in the applicable provision of this subsection is to occur before any other use.

(c) Credit for Tax Paid on Tires [or Inner Tubes].—If tires [or inner tubes] on which tax has been paid under chapter 32 are sold on or in connection with, or with the sale of, another article taxable under chapter 32, there shall (under regulations prescribed by the Secretary) be credited (without interest) against the tax imposed on the sale of such other article, an amount determined by multiplying the applicable percentage rate of tax for such other article by—

[(1) the purchase price (less, in the case of tires, the part of such price attributable to the metal rim or rim base) if such tires or inner tubes were taxable under section 4071 (relating to tax on tires and inner tubes); or

[(2) if such tires or inner tubes were taxable under section 4218 (relating to use by manufacturer, producer, or importer), the price (less, in the case of tires, the part of such price attributable to the metal rim or rim base) at which such or similar tires or inner tubes are sold, in the ordinary course of trade, by manufacturers, producers, or importers thereof, as determined by the Secretary.]

(1) if such tires were taxable under section 4071 (relating to tax on tires), the purchase price (less the part of such price attributable to the metal rim or rim base); or

(2) if such tires were taxable under section 4218 (relating to use by manufacturer, producer, or importer), the price (less the part of such price attributable to the metal rim or rim base) at which such or similar tires are sold, in the ordinary course of

trade, by manufacturers, producers, or importers thereof, as determined by the Secretary.

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SEC. 6420. GASOLINE USED ON FARMS.

(a) GASOLINE.—Except as provided in subsection (g), if gasoline is used on a farm for farming purposes, the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline the amount determined by multiplying—

(1) the number of gallons so used, by

(2) the rate of tax on gasoline under section 4081 which applied on the date he purchased such gasoline.

(b) TIME FOR FILING CLAIMS; PERIOD COVERED.—Not more than one claim may be filed under this section by any person with respect to gasoline used during his taxable year, and no claim shall be allowed under this section with respect to gasoline used during any taxable year unless filed by such person not later than the time prescribed by law for filing a claim for credit or refund of overpayment of income tax for such taxable year. For purposes of this subsection, a person's taxable year shall be his taxable year for purposes of subtitle A.

(c) MEANING OF TERMS.—For purposes of this section—

(1) USE ON A FARM FOR FARMING PURPOSES.—Gasoline shall be treated as used on a farm for farming purposes only if used (A) in carrying on a trade of business, (B) on a farm situated in the United States, and (C) for farming purposes.

(2) FARM.—The term "farm" includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

(3) FARMING PURPOSES.—Gasoline shall be treated as used for farming purposes only if used—

(A) by the owner, tenant, or operator of a farm, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife, on a farm of which he is the owner, tenant, or operator;

(B) by the owner, tenant, or operator of a farm, in handling, drying, packing, grading, or storing any agricultural or horticultural commodity in its unmanufactured state; but only if such owner, tenant, or operator produced more than one-half of the commodity which he so treated during the period with respect to which claim is filed;

(C) by the owner, tenant, or operator of a farm, in connection with—

(i) the planting, cultivating, caring for, or cutting of trees, or

(ii) the preparation (other than milling) of trees for market, incidental to farming operations; or

(D) by the owner, tenant, or operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment.

[(4) CERTAIN FARMING USE OTHER THAN BY OWNER, ETC.—In applying paragraph (3)(A) to a use on a farm for any purpose described in paragraph (3)(A) by any person other than the owner, tenant, or operator of such farm—

[(A) the owner, tenant, or operator of such farm shall be treated as the user and ultimate purchaser of the gasoline, except that

[(B) if the person so using the gasoline is an aerial applicator who is the ultimate purchaser of the gasoline and the person described in subparagraph (A) waives (at such time and in such form and manner as the Secretary shall prescribe) his right to be treated as the user and ultimate purchaser of the gasoline, then subparagraph (A) of this paragraph shall not apply and the aerial applicator shall be treated as having used such gasoline on a farm for farming purposes.]

(4) CERTAIN FARMING USE OTHER THAN BY OWNER, ETC.—In applying paragraph (3)(A) to a use on a farm for any purpose described in paragraph (3)(A) by any person other than the owner, tenant, or operator of such farm—

(A) the owner, tenant, or operator of such farm shall be treated as the user and ultimate purchaser of the gasoline, except that

(B) if—

(i) the person so using the gasoline is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the gasoline, and

(ii) the person described in subparagraph (A) waives (at such time and in such form and manner as the Secretary shall prescribe) his right to be treated as the user and ultimate purchaser of the gasoline,

then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such gasoline on a farm for farming purposes.

(5) GASOLINE.—The term "gasoline" has the meaning given to such term by section 4082(b).

(d) EXEMPT SALES; OTHER PAYMENTS OR REFUNDS AVAILABLE.—No amount shall be payable under this section with respect to any gasoline which the Secretary determines was exempt from the tax imposed by section 4081. The amount which (but for this sentence) would be payable under this section with respect to any gasoline shall be reduced by any other amount which the Secretary determines is payable under this section, or is refundable under any provision of this title, to any person with respect to such gasoline.

(e) APPLICABLE LAWS.—

(1) IN GENERAL.—All provisions of law, including penalties, applicable in respect of the tax imposed by section 4081 shall, insofar as applicable and not inconsistent with this section, apply in respect of the payments provided for in this section to the same extent as if such payments constituted refunds of overpayments of the tax so imposed.

(2) EXAMINATION OF BOOKS AND WITNESSES.—For the purpose of ascertaining the correctness of any claim made under this section, or the correctness of any payment made in respect of any such claim, the Secretary shall have the authority granted by paragraphs (1), (2), and (3) of section 7602 (relating to examination of books and witnesses) as if the claimant were the person liable for tax.

(3) FRACTIONAL PARTS OF A DOLLAR.—Section 7504 (granting the Secretary discretion with respect to fractional parts of a dollar) shall not apply.

(f) REGULATIONS.—The Secretary may be regulations prescribe the conditions, not inconsistent with the provisions of this section, under which payments may be made under this section.

(g) INCOME TAX CREDIT IN LIEU OF PAYMENT.—

(1) PERSONS NOT SUBJECT TO INCOME TAX.—Payment shall be made under subsection (a) only to—

(A) the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or an agency or instrumentality of one or more States or political subdivisions, or

(B) an organization exempt from tax under section 501(a) (other than an organization required to make a return of the tax imposed under subtitle A for its taxable year).

(2) ALLOWANCE OF CREDIT AGAINST INCOME TAX.—For allowance of credit against the tax imposed by subtitle A, see section 39.

(h) TERMINATION.—This section shall apply only with respect to gasoline purchased before October 1, 1988.

[(h)] *(i)* CROSS REFERENCES.—

(1) For exemption from tax in case of special fuels used on a farm for farming purposes, see section 4041(f).

(2) For civil penalty for excessive claim under this section, see section 6675.

(3) For fraud penalties, etc., see chapter 75 (section 7201 and following, relating to crimes, other offenses, and forfeitures).

SEC. 6421. GASOLINE USED FOR CERTAIN NONHIGHWAY PURPOSES OR BY LOCAL TRANSIT SYSTEMS.

(a) NONHIGHWAY USES.—[Except as provided in subsection (i), if gasoline is used in a qualified business use, the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to 1 cent for each gallon of gasoline so used on which tax was paid at the rate of 3 cents a gallon and 2 cents for each gallon of gasoline so used on which tax was paid at the rate of 4 cents a gallon.] *Except as provided in subsection (i), if gasoline is used in an off-highway business use, the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the amount determined by multiplying the number of gallons so used by the rate at which tax was imposed on such gasoline under section 4081.* Except as provided in paragraph (3) of subsection (e) of this section, in the case of gasoline used as a fuel in an aircraft, the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the amount determined by multiplying the number of gallons of gasoline so used by the rate at which tax was imposed on such gasoline under *section* 4081.

* * * * * * *

(d) Definitions.—For purposes of this section—

(1) Gasoline.—The term "gasoline" has the meaning given to such term by section 4082(b).

(2) **[**Qualified**]** *Off-highway business use.—*

(A) In general.—The term **[***"qualified business use"***]** means any use by a person in a trade or business of such person or in an activity of such person described in section 212 (relating to production of income) otherwise than as a fuel in a highway vehicle—

(i) which (at the time of such use) is registered, or is required to be registered, for highway use under the laws of any State or foreign country, or

(ii) which, in the case of a highway vehicle owned by the United States, is used on the highway.

(B) Exception for use in motorboats.—The term **[**"qualified business use"**]** *"off-highway business use"* does not include any use in a motorboat. The preceding sentence shall not apply to use in a vessel employed in the fisheries or in the whaling business.

(C) Commercial fishing vessels.—For provisions exempting from tax gasoline **[**, special motor fuels, and lubricating oil**]** *and special motor fuels* used for commercial fishing vessels, see—

(i) subsections (a)(3) and (d)(3) of section 4221 (relating to certain tax-free sales),

(ii) section 6416(b)(2)(B) (relating to refund or credit in case of certain uses), and

(iii) section 4041(g)(1) (relating to exemptions from tax on special fuels).

* * * * * * *

[SEC. 6424. LUBRICATING OIL USE FOR CERTAIN NONTAXABLE PURPOSES.

[(a) Payments.—Except as provided in subsection (f), if lubricating oil (other than cutting oils, as defined in section 4092(b), and other than oil which has previously been used) is used—

[(1) in a qualified business use (as defined in section 6421(d)(2)), or

[(2) in a qualified bus (as defined in section 4221(d)(7)),

the secretary shall pay (without interest) to the ultimate purchaser of such lubricating oil an amount equal to 6 cents for each gallon of lubricating oil so used.

[(b) Time for Filing Claims; Periods Covered.—

[(1) General rule.—Except as provided in paragraph (2), not more than one claim may be filed under subsection (a) by any person with respect to lubricating oil used during his taxable year. No claim shall be allowed under this paragraph with respect to lubricating oil use during any taxable year unless filed by such person not later than the time prescribed by law for filing a claim for credit or refund of overpayment of income tax for such taxable year. For purposes of this subsection, a person's taxable year shall be his taxable year for purposes of subtitle A.

[(2) EXCEPTION.—If $1,000 or more is payable under this section to any person with respect to lubricating oil used during any of the first three quarters of his taxble year, a claim may be filed under this section by such person with respect to lubricating oil used during such quarter. No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the quarter for which the claim is filed.

[(c) EXEMPT SALES.—No amount shall be payable under this section with respect to any lubricating oil which the Secretary determines was exempt from the tax imposed by section 4091. The amount which (but for this sentence) would be payable under this section with respect to any lubricating oil shall be reduced by any other amount which the Secretary determines is payable under this section, or is refundable under any provision of this title, to any person with respect to such lubricating oil.

[(d) APPLICABLE LAWS.—

[(1) IN GENERAL.—All provisions of law, including penalties, applicable in respect of the tax imposed by section 4091 shall, insofar as applicable and not inconsistent with this section, apply in respect of the payments provided for in this section to the same extent as if such payments constituted refunds of overpayments of the tax so imposed.

[(2) EXAMINATION OF BOOKS AND WITNESSES.—For the purpose of ascertaining the correctness of any claim made under this section, or the correctness of any payment made in respect of any claim, the Secretary shall have the authority granted by paragraphs (1), (2), and (3) of section 7602 (relating to examination of books and witnesses) as if the claimant were the person liable for tax.

[(e) REGULATIONS.—The Secretary may by regulations prescribe the conditions, not inconsistent with the provisions of this section, under which payments may be made under this section.

[(f) INCOME TAX CREDIT IN LIEU OF PAYMENT.—

[(1) PERSONS NOT SUBJECT TO INCOME TAX.—Payment shall be made under subsection (a) only to—

[(A) the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or an agency or instrumentality of one or more States or political subdivision, or

[(B) an organization exempt from tax under section 501(a) (other then an organization required to make a return of the tax imposed under subtitle A for its taxable year).

[(2) EXCEPTION.—Paragraph (1) shall not apply to a payment of a claim filed under subsection (b)(2).

[(3) ALLOWANCE OF CREDIT AGAINST INCOME TAX.—

[For allowance of credit against the tax imposed by subtitle A for lubricating oil used, see section 39.

[(g) CROSS REFERENCES.—

[(1) For civil penalty for excessive claims under this section, see section 6675.

(2) For fraud penalties, etc., see chapter 75 (section 7201 and following, relating to crimes, other offenses, and forfeitures).]

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SEC. 6427. FUELS NOT USED FOR TAXABLE PURPOSES.

(a) Nontaxable Uses.—Except as provided in subsection (i), if tax has been imposed under [section 4041 (a), (b), or (c)] *section 4041 (a) or (c)* on the sale of any fuel and the purchaser uses such fuel other than for the use for which sold, or resells such fuel, the Secretary shall pay (without interest) to him an amount equal to—

(1) the amount of tax imposed on the sale of the fuel to him, reduced by

(2) if he uses the fuel, the amount of tax which would have been imposed under section 4041 on such use if no tax under section 4041 had been imposed on the sale of the fuel.

(b) Intercity, Local, or School Buses.—

(1) Allowance.—Except as provided in paragraph (2) and subsection (i), if any fuel on the sale of which tax was imposed by [subsection (a) or (b) of section 4041] subsection (a) of section 4041 is used in an automobile bus while engaged in—

(A) furnishing (for compensation) passenger land transportation available to the general public, or

(B) the transportation of students and employees of schools (as defined in the last sentence of section 422(d)(7)(C)),

the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the product of the number of gallons of such fuel so used multiplied by the rate at which tax was imposed on such fuel by [subsection (a) or (b) of section 4041.] *subsection (a) of section 4041.*

(c) Use for Farming Purposes.—Except as provided in subsection (i), if any fuel on the sale of which tax was imposed under [section 4041 (a), (b) or (c)] *section 4041 (a) or (c)* is used on a farm for farming purposes (within the meaning of section 6420(c)), the Secretary shall pay (without interest) to the purchaser an amount equal to the amount of the tax imposed on the sale of the fuel. For purposes of this subsection, if fuel is used on a farm by any person other than the owner, tenant, or operator of such farm, the rules of paragraph (4) of section 6420(c) shall be applied (except that "liquid taxable under section 4041" shall be substituted for "gasoline" each place it appears in such paragraph (4)).

(d) Use by Certain Aircraft Museums or in Certain Helicopters.—Except as provided in subsection (i), if—

(1) any gasoline on which tax is imposed by section 4081, or

(2) any fuel on the sale of which tax was imposed under section 4041,

is used by an aircraft museum (as defined in section 4041(h)(2)) in an aircraft or vehicle owned by such museum and used exclusively for purposes set forth in section 4041(h)(2)(C), or is used in a helicopter for a purpose described in section 4041(1), the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline or fuel an amount equal to the aggregate amount of the tax imposed on such gasoline or fuel.

(e) USE IN CERTAIN TAXICABS.—

(1) IN GENERAL.—Except as provided in subsection (i), if—

(A) any gasoline on which tax is imposed by section 4081, or

(B) any fuel on the sale of which tax is imposed by section 4041,

is used in a qualified taxicab while engaged exclusively in furnishing qualified taxicab services, the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline or fuel [an amount equal to the aggregate amount of the tax imposed on such gasoline or fuel.] *an amount determined at the rate of 4 cents a gallon.*

(2) DEFINITIONS.—For purposes of this subsection—

(A) QUALIFIED TAXICAB SERVICES.—The term "qualified taxicab services" means the furnishing of nonscheduled passenger land transportation for a fixed fare by a taxicab which is operated by a person who—

(i) is licensed to engage in the trade or business of furnishing such transportation by a Federal, State, or local authority having jurisdiction over a substantial portion of such transportation furnished by such person, and

(ii) is not prohibited under the laws, regulations, or procedures of such Federal, State, or local authority, and is not prohibited by company policy, from furnishing (with consent of the passengers) shared transportation.

(B) QUALIFIED TAXICAB.—Except as provided by subparagraph (C), the term "qualified taxicab" means any land vehicle the passenger capacity of which is less than 10 adults, including the driver.

(C) CERTAIN GAS-GUZZLING TAXICABS EXCLUDED.—The term "qualified taxicab" does not include any vehicle if—

(i) such vehicle was acquired by the person operating such vehicle after 1978,

(ii) the model year of such vehicle is 1978 or later, and

(iii) the fuel economy of the model type of such vehicle is less than or equal to the average fuel economy standard applicable under section 502(a) of the Motor Vehicle Information and Cost Savings Act to the model year of such vehicle.

The preceding sentence shall not apply to any vehicle manufactured by a manufacturer to which an exemption under section 502(c) of the Motor Vehicle Information and Cost Savings Act was granted (or on application could have been granted) for the model year of such vehicle.

Terms used in this subparagraph shall have the same meaning as when used in title V of the Motor Vehicle Information and Cost Savings Act.

(3) Termination.—This subsection shall not apply after [December 31, 1982.] *September 30, 1984.*

[(f) Gasoline Used To Produce Certain Alcohol Fuels.—

[(1) In general.—Except as provided in subsection (i), if any gasoline on which tax is imposed by section 4081 is used by any person in producing a mixture described in section 4081(c) which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the aggregate amount of the tax imposed on such gasoline. The preceding sentence shall not apply with respect to any mixture sold or used after December 31, 1992.

[(2) Coordination with other repayment provisions.—No amount shall be payable under subsection (d) or (e) of this section or under section 6420 or 6421 with respect to any gasoline with respect to which an amount is payable under paragraph (1).]

(f) Gasoline Used To Produce Certain Alcohol Fuels.—

(1) In general.—Except as provided in subsection (i), if any gasoline on which a tax is imposed by section 4081 at the rate of 9 cents a gallon is used by any person in producing a mixture described in section 4081(c) which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the amount determined at the rate of 4 cents a gallon. The preceding sentence shall not apply with respect to any mixture sold or used after September 30, 1988.

(2) Coordination with other repayment provisions.—No amount shall be payable under paragraph (1) with respect to any gasoline with respect to which an amount is payable under subsection (d) or (e) of this section or under section 6420 or 6421.

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(k) Termination of Subsections (a), (b), (c), and (d).—Subsections (a), (b), (c), and (d) shall only apply with respect to fuels purchased before October 1, 1988.

[(k)]*(l)* Cross References.—

(1) For civil penalty for excessive claims under this section, see section 6675.

(2) For fraud penalties, etc., see chapter 75 (section 7201 and following, relating to crimes, other offenses, and forfeitures).

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CHAPTER 66—LIMITATIONS

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Subchapter A—Limitations on Assessment and Collection

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SEC. 6504. CROSS REFERENCES.

For limitation period in case of—

(1) Adjustments to accrued foreign taxes, see section 905(c).

(2) Change of treatment with respect to itemized deductions and zero bracket amount where taxpayer and his spouse make separate returns, see section 63(g)(5).

(3) Involuntary conversion of property, see section 1033(a)(2) (C) and (D).

(4) Gain upon sale or exchange of principal residence, see section 1034(j).

(5) Application by fiduciary for discharge from personal liability for State tax, see section 2204.

(6) Insolvent banks and trust companies, see section 7507.

(7) Service in a combat zone, etc., see section 7508.

(8) Claims against transferees and fiduciaries, see chapter 71.

(9) Assessments to recover excessive amounts paid under section 6420 (relating to gasoline used on farms), 6421 (relating to gaoline used for certain nonhighway purposes or by local transit systems), [6424 relating to lubricating oil used for certain nontaxable purpose),] or 6427 (relating to fuels not used for taxable purposes) and assessments of civil penalties under section 6675 for excessive claims under section 6420, 6421, [6424], or 6427, see section 6206.

(10) Assessment and collection of interest, see section 6601(g).

(11) Assessment of civil penalties under section 6694 or 6695, see section 6696(d)(1).

(12) Assessments of tax attributable to partnership items, see section 6229.

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CHAPTER 68—ADDITIONS TO THE TAX, ADDITIONAL AMOUNTS, AND ASSESSABLE PENALTIES

SUBCHAPTER A. Additions to the tax and additional amounts.
SUBCHAPTER B. Assessable penalties.

Subchapter A—Additions to the Tax and Additional Amounts

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Subchapter B—Assessable Penalties

Sec. 6671. Rules for application of assessable penalties.
Sec. 6672. Failure to collect and pay over tax, or attempt to evade or defeat tax.
Sec. 6673. Damages assessable for instituting proceedings before the Tax Court primarily for delay, etc.
Sec. 6674. Fraudulent statement or failure to furnish statement to employee.
Sec. 6675. Excessive claims with respect to the use of certain fuels [or lubricating oil].

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SEC. 6675. EXCESSIVE CLAIMS WITH RESPECT TO THE USE OF CERTAIN FUELS [OR LUBRICATING OIL].

(a) Civil Penalty.—In addition to any criminal penalty provided by law, if a claim is made under section 6420 (relating to gasoline used on farms), 6421 (relating to gasoline used for certain nonhighway purposes or by local transit systems), [6424 (relating to lubricating oil used for certain nontaxable puposes),] or 6427 (relating to fuels not used for taxable purposes) for an excessive amount, unless it is shown that the claim for such excessive amount is due to reasonable cause, the person making such claim shall be liable to a penalty in an amount equal to whichever of the following is the greater:

(1) Two times the excessive amount; or

(2) $10.

(b) Excessive Amount Defined.—For purposes of this section, the term "excessive amount" means in the case of any person the amount by which—

(1) the amount claimed under section 6420, 6421, [6424,] or 6427, as the case may be, for any period, exceeds

(2) the amount allowable under such section for such period.

(c) Assessment and Collection of Penalty.—

For assessment and collection of penalty provided by subsection (a), see section 6206.

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CHAPTER 75—CRIMES, OTHER OFFENSES, AND FORFEITURES

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Subchapter A—Crimes

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PART I—GENERAL PROVISIONS

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SEC. 7210. FAILURE TO OBEY SUMMONS.

Any person who, being duly summoned to appear to testify, or to appear and produce books, accounts, records, memoranda, or other papers, as required under sections 6420(e)(2), 6421(f)(2), [6424(d)(2),] 6427(h)(2), 7602, 7603, and 7604(b), neglects to appear or to produce such books, accounts, records, memoranda, or other papers, shall, upon conviction thereof, be fined not more than $1,000, or imprisoned not more than 1 year, or both, together with costs of prosecution.

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CHAPTER 78—DISCOVERY OF LIABILITY AND ENFORCEMENT OF TITLE

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Subchapter A—Examination and Inspection

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SEC. 7603. SERVICE OF SUMMONS.

A summons issued under section 6420(e)(2), 6421(f)(2), [6424(d)(2),] 6427(h)(2), or 7602 shall be served by the Secretary, by an attested copy delivered in hand to the person to whom it is directed, or left at his last and usual place of abode; and the certificate of service signed by the person serving the summons shall be evidence of the facts it states on the hearing of an application for the enforcement of the summons. When the summons requires the production of books, papers, records, or other data, it shall be sufficient if such books, papers, records, or other data are described with reasonable certainty.

SEC. 7604. ENFORCEMENT OF SUMMONS.

(a) JURISDICTION OF DISTRICT COURT.—If any person is summoned under the internal revenue laws to appear, to testify, or to produce books, papers, records, or other data, the United States district court for the district in which such person resides or is found shall have jurisdiction by appropriate process to compel such attendance, testimony, or production of books, papers, records, or other data.

(b) ENFORCEMENT.—Whenever any person summoned under section 6420(e)(2), 6421(f)(2), [6424(d)(2),] 6427(h)(2), or 7602 neglects or refuses to obey such summons, or to produce books, papers, records, or other data, or to give testimony, as required, the Secretary may apply to the judge of the district court or to a United States commissioner for the district within which the person so summoned resides or is found for an attachment against him as for a contempt. It shall be the duty of the judge or commissioner to hear the application, and, if satisfactory proof is made, to issue an attachment, directed to some proper officer, for the arrest of such person, and upon his being brought before him to proceed to a hearing of the case; and upon such hearing the judge or the United States commissioner shall have power to make such order as he shall deem proper, not inconsistent with the law for the punishment of contempts, to enforce obedience to the requirements of the summons and to punish such person for his default or disobedience.

(c) CROSS REFERENCES.—

(1) AUTHORITY TO ISSUE ORDERS, PROCESSES, AND JUDGMENTS.—

For authority of district courts generally to enforce the provisions of this title, see section 7402.

(2) PENALTIES.—

For penalties applicable to violation of section 6420(e)(2), 6421(f)(2), [6424(d)(2),] 6427(h)(2), or 7602, see section 7210.

SEC. 7605. TIME AND PLACE OF EXAMINATION.

(a) TIME AND PLACE.—The time and place of examination pursuant to the provisions of section 6420(e)(2), 6421(f)(2), [6424(d)(2),] 6427(h)(2), or 7602 shall be such time and place as may be fixed by the Secretary and as are reasonable under the circumstances. In the case of a summons under authority of paragraph (2) of section 7602, or under the corresponding authority of section 6420(e)(2), 6421(f)(2), [6424(d)(2),] or 6427(h)(2), the date fixed for appearance before the Secretary shall not be less than 10 days from the date of the summons.

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SEC. 7609. SPECIAL PROCEDURES FOR THIRD-PARTY SUMMONSES.

(a) NOTICE.—* * *

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(c) SUMMONS TO WHICH SECTION APPLIES.—

(1) IN GENERAL.—Except as provided in paragraph (2), a summons is described in this subsection if it is issued under paragraph (2) of section 7602 or under section 6420(e)(2), 6421(f)(2), [6424(d)(2),] or 6427(h)(2) and requires the production of records.

(2) EXCEPTIONS.—A summons shall not be treated as described in this subsection if—

(A) it is solely to determine the identity of any person having a numbered account (or similar arrangement) with a bank or other institution described in subsection (a)(3)(A), or

(B) it is in aid of the collection of—

(i) the liability of any person against whom an assessment has been made or judgment rendered, or

(ii) the liability at law or in equity of any transferee or fiduciary of any person referred to in clause (i).

(3) RECORDS; CERTAIN RELATED TESTIMONY.—For purposes of this section—

(A) the term "records" includes books, papers, or other data, and

(B) a summons requiring the giving of testimony relating to records shall be treated as a summons requiring the production of such records.

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SEC. 7610. FEES AND COSTS FOR WITNESSES.

(a) IN GENERAL.—The Secretary shall by regulations establish the rates and conditions under which payment may be made of—

(1) fees and mileage to persons who are summoned to appear before the Secretary, and

(2) reimbursement for such costs that are reasonably necessary which have been directly incurred in searching for, reproducing, or transporting books, papers, records, or other data required to be produced by summons.

(b) EXCEPTIONS.—No payment may be made under paragraph (2) of subsection (a) if—

(1) the person with respect to whose liability the summons is issued has a proprietary interest in the books, papers, records or other data required to be produced, or

(2) the person summoned is the person with respect to whose liability the summons is issued or an officer, employee, agent, accountant, or attorney of such person who, at the time the summons is served, is acting as such.

(c) SUMMONS TO WHICH SECTION APPLIES.—This section applies with respect to any summons authorized under section 6420(e)(2), 6421(f)(2), [6424(d)(2),] 6427(h)(2), or 7602.

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Subtitle I—Trust Fund Code

SEC. 9500. SHORT TITLE.

This subtitle may be cited as the Trust Fund Code of 1981.

CHAPTER 98—TRUST FUND CODE

Subchapter A. Establishment of Trust Funds.
Subchapter B. General provisions.

Subchapter A—Establishment of Trust Funds

Sec. 9501 Black Lung Disability Trust Fund.
Sec. 9502. Airport and Airway Trust Fund.
Sec. 9503. Highway Trust Fund.

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SEC. 9502. AIRPORT AND AIRWAY TRUST FUND.

(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Airport and Airway Trust Fund', consisting of such amounts as many be appropriated or credited to the Airport and Airway Trust Fund as provided in this section or section 9602(b).

(b) TRANSFER TO AIRPORT AND AIRWAY TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—There is hereby appropriated to the Airport and Airway Trust Fund—

(1) amounts equivalent to the taxes received in the Treasury after August 31, 1982, and before January 1, 1988, under subsections (c) and (d) of section 4041 (taxes on aviation fuel) and under sections 4261 and 4271 (taxes on transportation by air); *and*

(2) amounts determined by the Secretary of the Treasury to be equivalent to the taxes received in the Treasury after August 31, 1982, January 1, 1988, under section 4081, with respect to gasoline used in aircraft [;and].

[(3) amounts determined by the Secretary of the Treasury to be equivalent to the taxes received in the Treasury after August 31, 1982, January 1, 1988 under paragraphs (2) and (3) of section 4071(a), with respect to tires and tubes of the types used on aircraft.]

"SEC. 9503. HIGHWAY TRUST FUND.

(a) Creation of Trust Fund.—There is established in the Treasury of the United States a trust fund to be known as the "Highway Trust Fund", consisting of such amounts as may be appropriated or credited to the Highway Trust Fund as provided in this section or section 9602(b).

(b) Transfer to Highway Trust Fund of Amounts Equivalent to Certain Taxes.—

(1) In general.—There are hereby appropriated to the Highway Trust Fund amounts equivalent to the taxes received in the Treasury before October 1, 1988, under the following provisions—

(A) section 4041 (relating to taxes on diesel fuels and special motor fuels),

(B) section 4051 (relating to retail tax on heavy trucks and trailers),

(C) section 4061 (relating to tax on trucks and truck parts),

(D) section 4071 (relating to tax on tires and tread rubber),

(E) section 4081 (relating to tax on gasoline),

(F) section 4091 (relating to tax on lubricating oil), and

(G) section 4481 (relating to tax on use of certain vehicles).

(2) Liabilities incurred before October 1, 1988.—There are hereby appropriated to the Highway Trust Fund amounts equivalent to the taxes which are received in the Treasury after September 30, 1988, and before July 1, 1989, and which are attributable to liability for tax incurred before October 1, 1988, under the provisions described in paragraph (1).

(3) Adjustments for aviation uses.—The amounts described in paragraphs (1) and (2) with respect to any period shall (before the application of this subsection) be reduced by appropriate amounts to reflect any amounts transferred to the Airport and Airway Trust Fund under section 9502(b) with respect to such period.

(c) Expenditures From Highway Trust Fund.—

Federal-aid highway program.—Except as provided in subsection (e), amounts in the Highway Trust Fund shall be available, as provided by appropriation Acts, for making expenditures before October 1, 1988, to meet those obligations of the United States heretofore or hereafter incurred which are—

(A) authorized by law to be paid out of the Highway Trust Fund established by section 209 of the Highway Revenue Act of 1956,

(B) authorized to be paid out of the Highway Trust Fund under title I or II of the Surface Transportation Assistance Act of 1982, or

(C) hereafter authorized by a law which does not authorize the expenditure out of the Highway Trust Fund of any amount for a general purpose not covered by subparagraph (A) or (B) as in effect on December 31, 1982.

(2) Transfers from highway trust fund for certain repayments and credits.—

IN GENERAL.—The Secretary shall pay from time to time from the Highway Trust Fund into the general fund of the Treasury amounts equivalent to—

(i) the amounts paid before July 1, 1989, under—

(I) section 6420 (relating to amounts paid in respect of gasoline used on farms),

(II) section 6421 (relating to amounts paid in respect of gasoline used for certain nonhighway purposes or by local transit systems),

(III) section 6424 (relating to amounts paid in respect of lubricating oil used for certain nontaxable purpose), and

(IV) section 6427 (relating to fuels not used for taxable purposes),

on the basis of claims filed for periods ending before October 1, 1988, and

(ii) the credits allowed under section 39 (relating to credit for certain uses of gasoline, special fuels, and lubricating oil) with respect to gasoline, special fuels, and lubricating oil used before October 1, 1988.

(B) TRANSFERS BASED ON ESTIMATES.—Transfers under subparagraph (A) shall be made on the basis of estimates by the Secretary, and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess or less than the amounts required to be transferred.

(C) EXCEPTION FOR USE IN AIRCRAFT AND MOTORBOATS.—This paragraph shall not apply to amounts estimated by the Secretary as attributable to use of gasoline and special fuels in motorboats or in aircraft.

(3) 1988 FLOOR STOCKS REFUNDS.—The Secretary shall pay from time to time from the Highway Trust Fund into the general fund of the Treasury amounts equivalent to the floor stocks refunds made before July 1, 1989, under section 6421(a).

(4) TRANSFERS FROM THE TRUST FUND FOR MOTORBOAT FUEL TAXES.—

(A) TRANSFER TO NATIONAL RECREATIONAL BOATING SAFETY AND FACILITIES IMPROVEMENT FUND.—

(i) IN GENERAL.—The Secretary shall pay from time to time from the Highway Trust Fund into the National Recreational Boating Safety and Facilities Improvement Fund established by section 202 of the Recreational Boating Fund Act amounts (as determined by him) equivalent to the motor boat fuel taxes received on or after October 1, 1980, and before October 1, 1988.

(ii) LIMITATIONS.—

(I) LIMIT ON TRANSFERS DURING ANY FISCAL YEAR.—The aggregate amount transferred under this subparagraph during any fiscal year shall not exceed $45,000,000.

(II) LIMIT ON AMOUNT IN FUND.—No amount shall be transferred under this subparagraph if the Secretary determines that such transfer would result in increasing the amount in the National

Recreational Boating Safety and Facilities Improvement Fund to a sum in excess of $45,000,000.

(B) EXCESS FUNDS TRANSFERRED TO LAND AND WATER CONSERVATION FUND.—Any amount received in the Highway Trust Fund which is attributable to motorboat fuel taxes and which is not transferred from the Highway Trust Fund under subparagraph (A) shall be transferred by the Secretary from the Highway Trust Fund into the land and water conservation fund provided for in title I of the Land and Water Conservation Fund Act of 1965.

(C) MOTORBOAT FUEL TAXES.—For purposes of this paragraph, the term "motorboat fuel taxes" means the taxes under section 4041(a)(2) with respect to special motor fuels used as fuel in motorboats and under section 4081 with respect to gasoline used as fuel in motorboats.

(d) ADJUSTMENTS OF APPORTIONMENTS.—

(1) ESTIMATES OF UNFUNDED HIGHWAY AUTHORIZATIONS AND NET HIGHWAY RECEIPTS.—The Secretary of the Treasury, not less frequently than once in each calendar quarter, after conultation with the Secretary of Transportation, shall estimate—

(A) the amount which would (but for this subsection) be the unfunded highway authorizations at the close of the next fiscal year, and

(B) the net highway receipts for the 24-month period beginning at the close of such fiscal year.

(2) PROCEDURE WHERE THERE IS EXCESS UNFUNDED HIGHWAY AUTHORIZATIONS.—If the Secretary of the Treasury determines for any fiscal year that the amount described in paragraph (1)(A) exceeds the amount described in paragraph (1)(B)—

(A) he shall so advise the Secretary of Transportation, and

(B) he shall further advise the Secretary of Transportation as to the amount of such excess.

(3) ADJUSTMENT OF APPORTIONMENTS WHERE UNFUNDED AUTHORIZATIONS EXCEED 2 YEARS' RECEIPTS.—

(A) DETERMINATION OF PERCENTAGE.—If, before any apportionment to the States is made, in the most recent estimate made by the Secretary of the Treasury there is an excess referred to in paragraph (2)(B), the Secretary of Transportation shall determine the percentage which—

(i) the excess referred to in paragraph (2)(B), is of

(ii) the amount authorized to be appropriated from the Trust Fund for the fiscal year for apportionment to the States.

If, but for this sentence, the most recent estimate would be one which was made on a date which will be more than 3 months before the date of the apportionment, the Secretary of the Treasury shall make a new estimate under paragraph (1) for the appropriate fiscal year.

(B) ADJUSTMENT OF APPORTIONMENTS.—If the Secretary of Transportation determines a percentage under subparagraph (A) for purposes of any apportionment, notwithstanding any other provision of law, the Secretary of Transportation shall apportion to the States (in lieu of the amount

which, but for the provisions of this subsection, would be so apportioned) the amount obtained by reducing the amount authorized to be so apportioned by such percentage.

(4) APPORTIONMENT OF AMOUNTS PREVIOUSLY WITHHELD FROM APPORTIONMENT.—If, after funds have been withheld from apportionment under paragraph (3)(B), the Secretary of the Treasury determines that the amount described in paragraph (1)(A) does not exceed the amount described in paragraph (1)(B) or that the excess described in paragraph (1)(B) is less than the amount previously determined, he shall so advise the Secretary of Transportation. The Secretary of Transportation shall apportion to the States such portion of the funds so withheld from apportionment as the Secretary of the Treasury has advised him may be so apportioned without causing the amount described in paragraph (1)(A) to exceed the amount described in paragraph (1)(B). Any funds apportioned pursuant to the preceding sentence shall remain available for the period for which they would be available if such apportionment took effect with the fiscal year in which they are apportioned pursuant to the preceding sentence.

(5) DEFINITIONS.—For purposes of this subsection—

(a) UNFUNDED HIGHWAY AUTHORIZATIONS.—The term "unfunded highway authorizations" means, at any time, the excess (if any) of—

(i) the total potential unpaid commitments at such time as a result of the apportionment to the States of the amounts authorized to be appropriated from the Highway Trust Fund, over

(ii) the amount available in the Highway Trust Fund at such time to defray such commitments (after all other unpaid commitments at such time which are payable from the Highway Trust Fund have been defrayed).

(B) NET HIGHWAY RECEIPTS.—The term "net highway receipts" means, with respect to any period, the excess of—

(i) the receipts (including interest) of the Highway Trust Fund during such period, over

(ii) the amounts to be transferred during such period from such Fund under subsection (c) (other than paragraph (1) thereof).

(6) REPORTS.—Any estimate under paragraph (1) and any determination under paragraph (2) shall be reported by the Secretary of the Treasury to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, the Committees on the Budget of both Houses, the Committee on Public Works and Transportation of the House of Representatives, and the Committee on Environment and Public Works of the Senate.

(e) ESTABLISHMENT OF MASS TRANSIT ACCOUNT.—

(1) CREATION OF ACCOUNT.—There is established in the Highway Trust Fund a separate account to be known as the "Mass Transit Account" consisting of such amounts as may be transferred or credited to the Mass Transit Account as provided in this subsection or section 9602(b).

(2) Transfers to Mass Transit Account.—The Secretary of the Treasury shall transfer to the Mass Transit Account one-ninth of the amounts appropriated to the Highway Trust Fund under subsection (b) which are attributable to taxes under sections 4041 and 4081 imposed after March 31, 1983.

(3) Expenditures from account.—Amounts in the Mass Transit Account shall be available, as provided by appropriation Acts, for making capital expenditures before October 1, 1988 (including capital expenditures for new projects) under section 3 of the Urban Mass Transportation Act of 1964.

(4) Limitation.—Rules similar to the rules of subsection (d) shall apply to the Mass Transit Account except that subsection (d)(1) shall be applied by substituting "12-month" for "24-month".

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SECTION 266 OF THE ECONOMIC RECOVERY TAX ACT OF 1981

SEC. 266. DEDUCTION FOR MOTOR CARRIER OPERATING AUTHORITY.

(a) General Rule.—For purposes of chapter 1 of the Internal Revenue Code of 1954, in computing the taxable income of a taxpayer who, on July 1, 1980, held one or more motor carrier operating authorities, an amount equal to the aggregate adjusted basis of all motor carrier operating authorities held by the taxpayer on July 1, 1980, or acquired subsequent thereto pursuant to a binding contract in effect on July 1, 1980, shall be allowed as a deduction ratably over a period of 60 months. Such 60-month period shall begin with the month of July 1980 (or if later, the month in which acquired), or at the election of the taxpayer, the first month of the taxpayer's first taxable year beginning after July 1, 1980.

(b) Definition of Motor Carrier Operating Authority.—For purposes of this section, the term "motor carrier operating authority" means a certificate or permit held by a motor common or contract carrier of property and issued pursuant to subchapter II of chapter 109 of title 49 of the United States Code.

(c) Special Rules.—

(1) Adjusted basis.—For purposes of the Internal Revenue Code of 1954, proper adjustments shall be made in the adjusted basis of any motor carrier operating authority held by the taxpayer on July 1, 1980, for the amounts allowable as a deduction under this section.

(2) Certain stock acquisitions.—

(A) In general.—Under regulations prescribed by the Secretary of the Treasury or his delegate, and at the election of the holder of the authority, in any case in which a corporation—

(i) on or before July 1, 1980 (or after such date pursuant to a binding contract in effect on such date), acquired stock in a corporation which held, directly or indirectly, any motor carrier operating authority at the time of such acquisition, and

(ii) would have been able to allocate to the basis of such authority that portion of the acquiring corporation's cost basis in such stock attributable to such authority if the acquiring corporation had received such authority in the liquidation of the acquired corporation immediately following such acquisition and such allocation would have been proper under section 334(b)(2) of such Code,

the holder of the authority may, for purposes of this section, allocate a portion of the basis of the acquiring corporation in the stock of the acquired corporation to the basis of such authority in such manner as the Secretary may prescribe in such regulations.

(B) TREATMENT OF CERTAIN NONCORPORATE TAXPAYERS.—Under regulations prescribed by the Secretary of the Treasury or his delegate, and at the election of the holder of the authority, in any case in which—

(i) a noncorporate taxpayer or group of noncorporate taxpayers on or before July 1, 1980, acquired in one purchase stock in a corporation which held, directly or indirectly, any motor carrier operating authority at the time of such acquisition, and

(ii) the acquisition referred to in clause (i) would have satisfied the requirements of subparagraph (A) if the stock had been acquired by a corporation,

then, for purposes of subparagraphs (A) and (C), the noncorporate taxpayer or group of noncorporate taxpayers referred to in clause (i) shall be treated as a corporation. The preceding sentence shall apply only if such noncorporate taxpayer (or group of noncorporate taxpayers) on July 1, 1980, held stock constituting control (within the meaning of section 368(c) of the Internal Revenue Code of 1954) of the corporation holding (directly or indirectly) the motor carrier operating authority.

[(B)**]** *(C)* ADJUSTMENT TO BASIS.—Under regulations prescribed by the Secretary of the Treasury or his delegate, proper adjustment shall be made to the basis of the stock or other assets in the manner provided by such regulations to take into account any allocation under subparagraph (A).

(d) EFFECTIVE DATE.—The provisions of this section shall apply to taxable years ending after June 30, 1980.

SECTION 209 OF THE HIGHWAY REVENUE ACT OF 1956

[SEC. 209 HIGHWAY TRUST FUND.

[(a) CREATION OF TRUST FUND.—There is hereby established in the Treasury of the United States a trust fund to be known as the "Highway Trust Fund" (hereinafter in this section called the "Trust Fund"). The Trust Fund shall consist of such amounts as may be appropriated or credited to the Trust Fund as provided in this section.**]**

(b) DECLARATION OF POLICY.—It is hereby declared to be the policy of the Congress that if it hereafter appears—

(1) that the total receipts of the Trust Fund (exclusive of advances under subsection (d)) will be less than the total expenditurers from such Fund (exclusive of repayments of such advances); or

(2) that the distribution of the tax burden among the various classes of persons using the Federal-aid highways, or otherwise deriving benefits from such highways, is not equitable,

the Congress shall enact legislation in order to bring about a balance of total receipts and total expenditures, or such equitable distribution, as the case may be.

[(c) TRANSFER TO TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—

[(1) IN GENERAL.—There is hereby appropriated to the Trust Fund, out of any money in the Treasury not otherwise appropriated, amounts equivalent to the following percentages of the taxes received in the Treasury before October 1, 1984, under the following provisions of the Internal Revenue Code of 1954 (or under the corresponding provisions of prior revenue laws)—

[(A) 100 percent of the taxes received after June 30, 1956, under sections 4041 (taxes on diesel fuel and special motor fuels), 4071(a)(4) (tax on tread rubber), and 4081 (tax on gasoline);

[(B) 20 percent of the tax received after June 30, 1956, and before July 1, 1957, under section 4061(a) (tax on trucks, buses, etc.);

[(C) 50 percent of the tax received after June 30, 1957, and before July 1, 1962, under section 4061(a)(1) (tax on trucks, buses, etc.), and 100 percent of the tax received after June 30, 1962, under section 4061(a)(1);

[(D) 37½ percent of the tax received after June 30, 1956, and before July 1, 1957, under section 4071(a)(1) (tax on tires of the type used on highway vehicles);

[(E) 100 percent of the taxes received after June 30, 1957, under section 4071(a) (1), (2), (3), and (5) (taxes on tires of the type used on highway vehicles, other tires, and inner tubes);

[(F) 100 percent of the tax received under section 4481 (tax on use of certain vehicles);

[(G) 100 percent of the floor stocks taxes imposed by section 4226(a); and

[(H) 100 percent of the taxes received after December 31, 1965, under sections 4061(b) (tax on parts and accessories for trucks, buses, etc.) and 4091 (tax on lubricating oil).

In the case of any tax described in subparagraph (A), (B), or (D), amounts received during the fiscal year ending June 30, 1957, shall be taken into account only to the extent attributable to liability for tax incurred after June 30, 1956. In the case of any tax described in subparagraph (H), amounts received during the calendar year 1966 shall be taken into account only to the extent attributable to liability for tax incurred after December 31, 1965.

[(3) LIABILITIES INCURRED BEFORE OCTOBER 1, 1984, FOR NEW OR INCREASED TAXES.—There is hereby appropriated to the

Trust Fund, out of any money in the Treasury not otherwise appropriated, amounts equivalent to the following percentages of the Taxes which are received in the Treasury after September 30, 1984, and before July 1, 1985, and which are attributable to liability for tax incurred before October 1, 1989, under the following provisions of the Internal Revenue Code of 1954—

[(A) 100 percent of the taxes under sections 4041 (taxes on diesel fuel and special motor fuels), 4061(b) (tax on parts and accessories for trucks, buses, etc.), 4071(a)(4) (tax on tread rubber), 4081 tax on gasoline), and 4091 (tax on lubricating oil);

[(B) 20 percent of the tax under sectiion 4061(a)(1) (tax on trucks, buses, etc.);

[(C) 50 percent of the tax under section 4071(a)(1) (tax on tires of the type used on highway vehicles) and 10 percent of the tax under section 4071(a)(3) (tax on inner tubes for tires); and

[(D) 100 percent of the tax under section 4481 (tax on use of certain vehicles).

[(4) Method of transfer.—The amounts appropriated by paragraphs (1), (2), and (3) shall be transferred at least monthly from the general fund of the Treasury to the Trust Fund on the basis of estimates by the Secretary of the Treasury of the amounts, referred to in paragraphs (1), (2), and (3), received in the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

[(5) Adjustments for aviation uses.—The amounts described in paragraphs (1)(A) and (3)(A) with respect to any period shall (before the application of this subsection) be reduced by appropriate amounts to reflect any amounts transferred to the Airport and Airway Trust Fund under section 208(b) of the Airport and Airway Revenue Act of 1970 with respect to such period. The amounts described in paragraphs (1)(E) and (3)(C) with respect to any period shall (before the application of this subsection) be reduced by appropriate amounts to reflect any amounts transferred to the Airport and Airway Trust Fund under section 208(b)(3) of the Airport and Airway Revenue Act of 1970 with respect to such period.

[(d) Additional Appropriations to Trust Fund.—There are hereby authorized to be appropriated to the Trust Fund, as repayable advances, such additional sums as may be required to make the expenditures referred to in subsection (f).

[(e) Management of Trust Fund.—

[(1) In general.—It shall be the duty of the Secretary of the Treasury to hold the Trust Fund, and (after consultation with the Secretary of Commerce) to report to the Congress not later than the first day of June of each year on the financial condition and the results of the operations of the Trust Fund during the preceding fiscal year and on its expected condition and operations during each fiscal year thereafter up to and including the fiscal year ending September 30, 1985. Such report shall be printed as a House document of the session of the Congress to which the report is made.

[(2) INVESTMENT.—It shall be the duty of the Secretary of the Treasury to invest such portion of the trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (A) on original issue at the issue price or (B) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the Trust Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the Public Debt; except that where such average rate is not a multiple of one-eighth of 1 percent, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary of the Treasury determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States on original issue or at the market price, is not in the public interest. Advances to the Trust Fund pursuant to subsection (d) shall not be invested.

[(3) SALE OF OBLIGATIONS.—Any obligation acquired by the Trust Fund (except special obligations issued exclusively to the Trust Fund may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

[(4) INTEREST AND CERTAIN PROCEEDS.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

(f) EXPENDITURES FROM TRUST FUND.—

[(1) FEDERAL-AID HIGHWAY PROGRAM.—Amounts in the Trust Fund shall be available, as provided by appropriation Acts, for making expenditures after June 30, 1956, and before October 1, 1984, to meet those obligations of the United States heretofore or herafter incurred under the Federal-Aid Road Act approved July 11, 1916, as amended and supplemented, which are attributable to Federal-aid highways (including those portions of general administrative expenses of the Bureau of Public Roads payable from such appropriations).

[(2) REPAYMENT OF ADVANCES FROM GENERAL FUND.—Advances made pursuant to subsection (d) shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary of the Treasury determines that moneys are available in the Trust Fund for such purposes. Such interest shall be at rates computed in the same manner as provided in subsection(e)(2) for special obligations and shall be compounded annually.

[(3) TRANSFERS FROM TRUST FUND FOR GASOLINE AND LUBRICATING OIL USED FOR CERTAIN PURPOSES. The Secretary of the Treasury shall pay from time to time from the Trust Fund into the general fund of the Treasury amounts equivalent to the amounts paid before July 1, 1985, under sections 6420 (relating to amounts paid in respect of gasoline used on farms), 6421 (relating to amounts paid in respect of gasoline used for certain nonhighway purposes or by local transit systems), and 6424 (relating to amounts paid in respect of lubricating oil used for certain nontaxable purposes) of the Internal Revenue Code of 1954 on the basis of claims filed for periods beginning after June 30, 1956, and ending before October 1, 1984. This paragraph shall not apply to amounts estimated by the Secretary of the Treasury as paid under section 6421 of such Code with respect to gasoline used after December 31, 1964, in motorboats. This paragraph shall not apply to amounts estimated by the Secretary of the Treasury as paid under sections 6420 and 6421 of such Code with respect to gasoline used after June 30, 1970, in aircraft.

[(4) 1984 FLOOR STOCKS REFUNDS.—The Secretary of the Treasury shall pay from time to time from the Trust Fund into the general fund of the Treasury amounts equivalent to the following percentages of the floor stocks refunds made before July 1, 1985, under section 6412(a)(2) of the Internal Revenue Code of 1954—

[(A) 40 percent of the refunds in respect of articles subject to the tax imposed by section 4061(a)(1) of such Code (trucks, buses, etc.);

[(B) 100 percent of the refunds in respect of articles subject to tax under section 4071(a)(1), (3), or (4) of such Code (certain tires, tubes, and tread rubber); and

[(C) 80 percent of the refunds in respect of gasoline subject to tax under section 4081 of such Code (other than gasoline to be used in motorboats, as estimated by the Secretary of the Treasury).

[(5) TRANSFERS FROM THE TRUST FUND FOR MOTORBOAT FUEL TAXES.—

[(A) TRANSFER TO NATIONAL RECREATIONAL BOATING SAFETY AND FACILITIES IMPROVEMENT FUND.—

[(i) IN GENERAL.—The Secretary of the Treasury shall pay from time to time from the trust fund into the National Recreational Boating Safety and Facilities Improvement Fund established by section 202 of the Recreational Boating Fund Act amounts (as determined by him) equivalent to the motorboat fuel taxes received on or after October 1, 1980, and before October 1, 1983.

[(ii) LIMITATIONS.—

[(I) LIMIT ON TRANSFERS DURING ANY FISCAL YEAR.—The aggregate amount transferred under this subparagraph during any fiscal year shall not exceed $20,000,000.

[(II) LIMIT ON AMOUNT IN FUND.—No amount shall be transferred under this subparagraph if the Secretary determines that such transfer would result in increasing the amount in the National Recreational Boating Safety and Facilities Improvement Fund to a sum in excess of $20,000,000.

[(B) EXCESS FUNDS TRANSFERRED TO LAND AND WATER CONSERVATION FUND.—Any amount received in the trust fund which is attributable to motorboat fuel taxes and which is not transferred from the trust fund under subparagraph (A) shall be transferred by the Secretary from the trust fund into the land and water conservation fund provided for in title I of the Land and Water Conservation Fund Act of 1965.

[(C) MOTORBOAT FUEL TAXES.—For purposes of this paragraph, the term "motorboat fuel taxes" means the taxes under section 4041(b) of the Internal Revenue Code of 1954 with respect to special motor fuels used as fuel in motorboats and under section 4081 of such Code with respect to gasoline used as fuel in motorboats.

[(6) TRANSFERS FROM THE TRUST FUND FOR INCOME TAX CREDITS ALLOWED FOR CERTAIN USES OF GASOLINE, SPECIAL FUELS, AND LUBRICATING OIL.—The Secretary of the Treasury shall pay from time to time from the Trust Fund into the general fund of the Treasury amounts equivalent to the credits allowed under section 39 of the Internal Revenue Code of 1954 (relating to credit for certain uses of gasoline, special fuels, and lubricating oil) with respect to gasoline, special fuels, and lubricating oil used before October 1, 1984. Such amounts shall be transferred on the basis of estimates by the Secretary of the Treasury, and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess or less than the credits allowed. This paragraph shall not apply to amounts estimated by the Secretary of the Treasury as attributable to the use after June 30, 1970, of gasoline and special fuels in aircrafts.

[(7) TRANSFERS FROM TRUST FUND FOR NONTAXABLE USES OF FUELS.—The Secretary of the Treasury shall pay from time to time from the Trust Fund into the general fund of the Treasury amounts equivalent to the amounts paid before July 1, 1985, under section 6427 of the Internal Revenue Code of 1954 (relating to fuels not used for taxable purposes) on the basis of claims filed for fuels used before October 1, 1984. This paragraph shall not apply to amounts estimated by the Secretary of the Treasury as paid under such section 6427 with respect to fuels used in aircraft.

[(g) ADJUSTMENTS OF APPORTIONMENTS.—

[(1) ESTIMATES OF AMOUNT AVAILABLE FOR EXPENDITURES.—The Secretary of the Treasury shall from time to time, after consultation with the Secretary of Transportation, estimate the amounts which will be available in the Trust Fund (excluding repayable advances) to defray the expenditures which will be required to be made from the Trust Fund.

[(2) INITIAL PROCEDURE WHERE THERE IS SHORTFALL.—If the Secretary of the Treasury determines that, after all other expenditures required to be made from the Trust Fund have been defrayed, the amounts which will be available in the Trust Fund (excluding repayable advances) will be insufficient to defray the expenditures which will be required as a result of the apportionment to the States of the amounts authorized to be appropriated from the Trust Fund for any fiscal year—

[(A) he shall so advise the Secretary of Transportation, and

[(B) he shall further advise the Secretary of Transportation as to the amount which, after all other expenditures required to be made from the Trust Fund have been defrayed, will be available in the Trust Fund (excluding repayable advances) to defray the expenditures required as a result of the apportionment to the States for such fiscal year.

[(3) DETERMINATION OF PERCENTAGE.—The Secretary of Transportation shall determine the percentage which the amount referred to in paragraph (2)(B) is of the amount authorized to be appropriated from the Trust Fund for such fiscal year for apportionment to the States.

[(4) ADJUSTMENT OF APPORTIONMENTS.—Notwithstanding any other provision of law, the Secretary of Transportation shall (after determining a percentage for a fiscal year under paragraph (3)) apportion to the States for such fiscal year (in lieu of the amount which but for the provisions of this subsection would be so apportioned) the amount obtained by multiplying the amount authorized to be appropriated for such fiscal year by such percentage.

[(5) APPORTIONMENT OF AMOUNTS PREVIOUSLY WITHHELD FROM APPORTIONMENT.—Whenever the Secretary of the Treasury determines that there will be available in the Trust Fund (excluding repayable advances) amounts which, after all other expenditures required to be made from the Trust Fund have been defrayed, will be available to defray the expenditures required as a result of the apportionment of funds previously withheld from apportionment for any fiscal year, he shall so advise the Secretary of Transportation. The Secretary of Transportation shall apportion to the States such portion of the funds so withheld from apportionment as the Secretary of the Treasury has advised him may be so apportioned without causing expenditures from the Trust Fund to exceed amounts available in the Trust Fund (excluding repayable advances) to defray such expenditures. Any funds apportioned pursuant to the preceding sentence shall remain available for the period for which they would be available if such apportionment took effect with the fiscal year in which they are apportioned pursuant to the preceding sentence.]

SECTION 201 OF THE LAND AND WATER CONSERVATION FUND ACT OF 1965

TRANSFERS TO AND FROM LAND AND WATER CONSERVATION FUND

SEC. 201. (a) There shall be set aside in the land and water conservation fund in the Treasury of the United States provided for in title I of this Act the amounts specified in section 209(f)(5) of the Highway Revenue Act of 1956 (relating to special motor fuels and gasoline used in motorboats).

(b) There shall be paid from time to time from the land and water conservation fund into the general fund of the Treasury amounts estimated by the Secretary of the Treasury as equivalent to—

(1) the amounts paid before October 1, [1985] *1989*, under section 6421 of the Internal Revenue Code of 1954 (relating to amounts paid in respect to gasoline used for certain nonhighway purposes or by local transit systems) with respect to gasoline used after December 31, 1964, in motorboats, on the basis of claims filed for periods ending before October 1, [1984] *1988;* and

(2) 80 percent of the floor stocks refunds made before October 1, [1985] *1989*, under section 6412(a)(2) of such Code with respect to gasoline to be used in motorboats.

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